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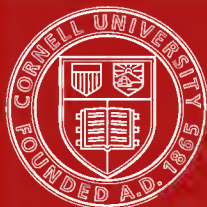
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STATE OF NEW YORK

PUBLIC PAPERS
OF
CHARLES E. HUGHES
GOVERNOR
1910

ALBANY
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1910
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I

PROCLAMATIONS

I

PROCLAMATIONS

Ordering a Special Election in the Thirty-Second Congressional District

STATE OF NEW YORK — EXECUTIVE CHAMBER.

WHEREAS, a vacancy exists in the office of Representative in Congress for the Thirty-second Congressional District of the State of New York, consisting of the county of Monroe, caused by the death on the eleventh day of March, 1910, of James Breck Perkins, Representative in Congress from said district;

NOW, THEREFORE, I, Charles E. Hughes, Governor of the State of New York, in pursuance of the provisions of section two of article one of the Constitution of the United States and of section 292 of chapter 22 of the Laws of 1909, constituting chapter 17 of the Consolidated Laws, known as the Election Law, do hereby order and proclaim that an election for representative in Congress in the place of the said James Breck Perkins, be held in the Thirty-second Congressional District, consisting of the county of Monroe, on Tuesday, the nineteenth day of April, 1910, such election to be conducted in the mode prescribed by law for the election of Representatives in Congress.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[I. S.] second day of March in the year of our Lord
one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

Ordering a Special Election in the Thirty-seventh Senate District

STATE OF NEW YORK — EXECUTIVE CHAMBER.

WHEREAS, a vacancy exists in the office of Senator for the Thirty-seventh Senate District of the State of New York, composed of the counties of Otsego, Madison and Chenango, caused by the resignation on the twenty-ninth day of March, 1910, of Jotham P. Allds, Senator from said district;

NOW, THEREFORE, I, Charles E. Hughes, Governor of the State of New York, in pursuance of the provisions of section 292 of chapter 22 of the Laws of 1909, constituting chapter 17 of the Consolidated Laws, known as the Election Law, do hereby order and proclaim that an election for State Senator in the place of the said Jotham P. Allds, be held in the Thirty-seventh Senate District, composed of the counties of Otsego, Madison and Chenango, on Thursday, the twenty-eighth day of April, 1910, such election to be conducted in the mode prescribed by law for the election of State Senators.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this thirtieth
[L.S.] day of March in the year of our Lord one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

Convening the Legislature in Extraordinary Session

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Pursuant to the power vested in me by section 4 of Article IV of the Constitution, I hereby convene the Legislature in Extraordinary Session at the Capitol in the city of Albany on

Monday, the twentieth day of June, 1910, at half-past eight o'clock, post meridian.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L.S.] seventh day of May in the year of our Lord one
thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

II

MESSAGES TO THE LEGISLATURE

II

MESSAGES TO THE LEGISLATURE

Regular Session Began January 5; Ended May 27

Extraordinary Session Began June 20; Ended July 1

Annual Message

STATE OF NEW YORK — EXECUTIVE CHAMBER,

Albany, January 5, 1910.

To the Legislature:

During the fiscal year ending September 30, 1909, the total amount received by the State was \$52,285,239.29. This was \$504,254.06 in excess of the receipts of the preceding fiscal year.

Included in the total are the proceeds of the sale of canal and highway bonds, and the sums realized upon the canal debt sinking fund and trust fund accounts which aggregate \$21,127,243.39, being an increase of \$2,828,785.96 over similar items of the preceding year, as follows:

	1908.	1909.
Proceeds of sale of barge canal bonds.....	\$5,039,611 70	\$10,227,792 25
Proceeds of sale of bonds and temporary bonds for highway improvement...	5,950,000 00	6,300,000 00
Principal and interest on bonds and judgments for canal debt sinking fund and interest on deposits of same	5,169,633 65	2,980,410 26
Trust funds, including twenty-year court and trust funds	2,139,212 08	1,619,040 88
	<hr/>	<hr/>
	\$18,298,457 43	\$21,127,243 39
	<hr/>	<hr/>

The receipts from taxes (apart from miscellaneous income of \$2,419,007.93) amounted to the sum of \$28,738,987.97. This shows a decrease of \$2,578,064.94, as follows:

	1908.	1909.
Special tax for judges, stenographers, etc.	\$368,098 31	\$330,436 87
Tax on corporations	8,937,635 24	8,671,920 20
Tax on organization of cor- porations	207,535 49	343,938 99
Tax on transfers of dece- dents' estates	6,605,891 46	6,962,615 23
Tax on transfers of stock..	3,907,373 38	5,355,546 16
Tax on trafficking in liquors	9,359,318 63	5,140,524 21
Tax on mortgages	1,666,527 51	1,844,821 45
Tax on racing associations.	247,443 31	65,166 74
Tax on land of nonresident owners	17,229 58	24,018 12
	<u>\$31,317,052 91</u>	<u>\$28,738,987 97</u>

The explanation of the decrease is found in the liquor tax receipts, which are less by \$4,218,794.42 than those of the previous year. This, however, is not a real loss, but is due to change in the beginning of the excise year from May 1st to October 1st, thus throwing a large part of the receipts into the next fiscal year. It is believed that the liquor tax receipts for the calendar year are substantially the same as formerly, but the above-mentioned change of date affects the amount collected to the close of the fiscal year on September 30, 1909, and the general balance as of that date.

The total disbursements during the last fiscal year were \$64,109,227.55. This embraces the outlays for canals and highways, and for forest purchases, which aggregated \$35,856,530.12, being an excess in these items over the preceding year of \$20,479,188.67, as follows:

	1908.	1909.
Canals, for all purposes including amounts paid from canal debt sinking fund (1907, \$5,369,-384.45; 1908, \$1,805,-527.87; 1909, \$15,862,-257.45)	\$7,236,348 33	\$25,465,258 36
Highways, for all purposes (including temporary certificates 1907, \$557,-423.34; 1908, \$1,810,-000; 1909, \$1,300,000)...	7,162,915 25	7,951,481 51
Trust fund transactions...	437,108 68	2,208,479 01
Adirondack Park and Catskill Preserve purchases...	337,469 19	231,311 24
Principal and interest Adirondack Park bonds....	203,500 00
	<u>\$15,337,341 45</u>	<u>\$35,856,530 12</u>

The remaining disbursements aggregate \$28,252,697.43.

The surplus on September 30, 1909, ascertained according to the customary method, amounted to \$8,435,848.16. At the end of the preceding year it was \$12,857,784.06. There would not have been this decrease in the general balance had it not been for the difference in the excise year and the consequent difference of over \$4,000,000 in the liquor tax receipts, already noted.

The State debt has been increased to \$41,230,660 through the issue of additional bonds amounting to \$15,000,000 for canal and highway purposes, as follows:

	1908.	1909.
Canal debt	\$20,230,660 00	\$30,230,660 00
Highway debt	6,000,000 00	11,000,000 00
	<u>\$26,230,660 00</u>	<u>\$41,230,660 00</u>

On September 30, 1909, the sinking funds for the canal and highway debts aggregated \$22,056,269.70, the debt in excess of the sinking funds being \$19,174,390.30.

THE HARRIMAN GIFT.

It is with great pleasure that I announce a most important public benefaction. In accordance with the wishes of the late Edward H. Harriman, his widow, Mary W. Harriman, has informed me of her readiness to convey to the State a tract of about ten thousand acres of land situated in Orange and Rockland counties to be held in perpetuity as a State park, and in furtherance of the same object to give to the State or to such board or commission as may be authorized to receive and administer the trust, the sum of one million dollars. Mrs. Harriman states that it was her husband's wish, and is her expectation, that this fund should be used by the State to acquire other parcels of land adjacent to the above-mentioned tract and intervening between it and the Hudson river, and in the improvement of the whole, so that the park may ultimately have some portion of river front and thus by improved accessibility be rendered more useful and more beneficial to the people of New York City and the neighboring counties. In addition to the condition that the land so conveyed should be held for use as a public park, the grant is to be made upon the further condition that if the State or any person or corporation under its authority shall hereafter condemn or seek to condemn other land in Orange county belonging to Mrs. Harriman or her descendants, the land which is the subject of the grant shall thereupon revert to her or her heirs. This condition is imposed for the protection of an adjacent tract upon which Mrs. Harriman resides. I submit herewith the correspondence relating to this proposal.

Through this generous and patriotic action, which cannot be too highly commended, there will at once be afforded a basis not only for necessary conservation, but for the development of a public recreation ground in a region of matchless beauty, rich in historical associations, and close to the abodes of more than half the people of the State.

I recommend appropriate recognition of this munificence and the enactment of suitable measures in order to provide for the acceptance of the gift and its use for the purposes defined.

OTHER BENEFACCTIONS.

It is my privilege to announce still other gifts for similar purposes. The importance of protecting the shores of the Hudson river and establishing a Highlands park readily accessible to those living in the congested quarters of the Metropolis has inspired a benevolence which cannot fail to receive the grateful appreciation of the people.

These additional gifts are the result of the activity of the Palisades Park Commission which was created in 1900. Through this commission, constituted under the laws of this State, and a similar commission with identical membership, established under the laws of the State of New Jersey, there has been acquired the face of the cliffs from Fort Lee ferry to Piermont, including the riparian rights for the entire distance. The jurisdiction of the commission constituted under the laws of this State at first reached only to Piermont creek in Rockland county; but by the amendment of the year 1906 it was extended so as to authorize the commission "to select and locate such mountain lands along the west bank of the Hudson river in Rockland county north of Piermont creek aforesaid and south of the State reservation at Stony Point" as it might judge to be "proper and necessary for the purpose of extending the limits of said State park and thereby preserving the scenic beauty of the mountain lands along the west bank of the Hudson river in Rockland county north of the palisades."

In the work already accomplished for the protection of the palisades, the Commission has been materially aided by private contributions of money and land amounting to about \$300,000, the State of New York having contributed \$400,000, and the State of New Jersey, \$50,000. The members of the Commission who have conducted the enterprise with conspicuous ability and advantage to the State, not only have served without compensation, but I am informed that the total amount received by them for their personal expenses during the nine years of their service is only \$457.93.

The Commission has developed a plan for the construction of a roadway along the base of the palisades from Fort Lee to Piermont, for the extension of the present park northward as contemplated in the act of 1906, and for the creation and improvement under its jurisdiction of a Highlands park including the land to be conveyed by Mrs. Harriman, with suitable connections between these parks and with the State reservation at Stony Point.

For this purpose it has secured private subscriptions from residents of New York, New Jersey and Philadelphia, as follows:

John D. Rockefeller	\$500,000
J. Pierpont Morgan	500,000
Margaret Olivia Sage	50,000
Helen Miller Gould	25,000
Ellen F. James and Arthur Curtiss James.....	25,000
William K. Vanderbilt	50,000
George F. Baker	50,000
James Stillman	50,000
John D. Archbold	50,000
William Rockefeller	50,000
Frank A. Munsey	50,000
Henry Phipps	50,000
E. T. Stotesbury	50,000
E. H. Gary	50,000
V. Everit Macy	25,000
George W. Perkins	50,000

These make a total, in addition to Mrs. Harriman's gift, which they are intended to supplement, of \$1,625,000. These additional subscriptions secured by the Palisades Park Commission are upon the following conditions:

(1) That in order that the Palisades Park Commission may carry out the proposed plan and receive and hold the land and money offered the State by Mrs. Harriman, its jurisdiction shall be extended to the northward along the west bank of the

Hudson river to Newburgh, and to the westward as far as and to include the Ramapo mountains, giving the Commission the same powers granted to it at the time it was created and at the time its jurisdiction was extended in 1906, including the right to condemn land for roadway and park purposes.

(2) That the State of New York appropriate \$2,500,000 to the use of the Commission for the acquiring of land and the building of roads and general park purposes.

(3) That the State discontinue the work on the new State prison located in Rockland county, and relocate the prison where, in the judgment of the Palisades Park Commission, it will not interfere with the plans and purposes of the Commission.

(4) That in addition to the aforesaid appropriation from the State, a further sum of \$2,500,000, including Mrs. Harriman's pledge of a million dollars, be secured on or before January 1, 1910.

(5) That in addition to the above \$5,000,000, the State of New Jersey appropriate such an amount as the Palisades Park Commission shall deem to be its fair share.

The private subscriptions, including Mrs. Harriman's gift, already aggregate more than the sum of \$2,500,000 stipulated, and I am informed that the Commission has reasonable assurances with respect to a contribution from the State of New Jersey.

With regard to the other conditions it may be observed that in view of the service already performed by the Palisades Park Commission and its present jurisdiction, it is appropriate that its jurisdiction should be extended as desired. To this Mrs. Harriman assents. The act passed at the last session of the Legislature, to create a reservation in the Highlands of the Hudson, should be amended or repealed, so as to avoid any conflict of authority. I may add that in the near future it may also be advisable to consider the desirability of proper measures to protect by suitable interstate action the watershed in northern New Jersey and in the adjoining part of this State, and that jurisdiction for this purpose might properly be confided to the same Commission.

It is also fitting that the location of the new State prison should not interfere with the execution of the plan, and that another site should be found therefor. A contract has not yet been let for the construction of the building, and whatever loss may result from the change by reason of any work on the prison site cannot fairly be regarded as a sufficient objection in the light of the extent and purpose of these contributions.

There remains the question of the appropriation to be made by the State. In view of the heavy demands upon the State treasury, to which I shall refer later, it will be difficult if not impossible for adequate appropriations to be made out of our annual income. Nor is it desirable that the completion of this plan should be delayed to await the raising of the necessary amounts by annual appropriations distributed over a long period of years. Such delay will inevitably increase the cost and obstruct the carrying out of the plan. The advisable course, in my judgment, would be to provide for the necessary appropriation by an issue of bonds with adequate sinking fund and thus to make available, as the Commission may require it, the desired amount, and to accomplish the purpose with the least possible delay and without needlessly enhanced expense. Under the Constitution it would be necessary that the creation of such a debt should be approved by the people at a general election, and it may be submitted for such approval next fall. Before the subscriptions were obtained I suggested this course to the Commission and they gave their cordial assent to its adoption.

I submit herewith the correspondence with the Palisades Park Commission in respect to its plans and these subscriptions, and I recommend that suitable action be taken in recognition of these gifts and for their acceptance, for the enlargement of the jurisdiction of the Commission and for the carrying out of its plans as proposed, including the change in the sites of the new State prison. And I also recommend that proper provision be made for an issue of bonds to provide the necessary moneys to be supplied by the State, and that this proposal be submitted to the people for their approval at the next general election.

We may thus at an early day secure the conservation of the

natural beauty of the west bank of the Hudson river and the provision of a public park of inestimable advantage to the people which will remain as a memorial of the generosity of the private contributors and of the value of enlightened co-operation between individuals and the State.

THE FOREST PRESERVE.

So far as State appropriations are concerned, we confront an exigency in connection with acquisitions for the forest preserve similar to that existing in the case of the Highlands park. Our total holdings in the Adirondack and Catskill mountains now amount to 1,641,523 acres, of which 52,549 acres were acquired during the past year. But the area of the proposed Adirondack park is 3,313,564 acres, and that of the proposed Catskill park 576,120 acres, making a total of 3,889,684 acres. It is obvious that we cannot extend our holdings as the interests of the State require without larger outlays than annual appropriations permit. The State has decided upon its policy and it should be promptly executed. It is little short of absurd that this State with its great wealth should unnecessarily delay the securing of control of these forest tracts, the preservation of which is of such vital importance to our continued prosperity. The only businesslike method, having decided upon the tracts to be acquired and the imperative necessity of their acquisition, is to make the purchases as rapidly as possible without waiting for values to increase, or risking the peril of further depredation. Reliance simply upon such resort as may be made to annual income, in view of the other demands upon the State, means purchases in dribblets extending over a long period of years with a vastly increased outlay for many of the properties acquired and with the inevitable failure of our forest policy in an important degree because of the want of prompt protection. Further, the outlay is for a capital investment for the benefit of the people of the State for all time and not in any sense for the ordinary expenses of government, and it is eminently proper that its cost should be distributed over a long period of years.

These objects, to provide for prompt acquisition and for a proper distribution of cost, may be met by the creation of a

State debt represented by long-term bonds with annual contributions to a sinking fund adequate to discharge both interest and the principal at maturity. Under the Constitution it is for the people to say whether they desire the forest policy of the State to be carried out promptly and without unnecessary losses, and are willing that the means should be thus provided. If in the case of the Highlands park the necessary appropriations are to be provided for by the bond issue, and if under the Constitution, despite the close relation in policy of the two investments, separate submissions to the people are deemed to be required, it would probably be considered advisable, in view of the contributions which private individuals have offered, to give preference to the indebtedness for the Highlands park and postpone to another year the submission of the creation of a debt for forest purchases. It may be that still further postponement may be deemed wise to make provision for the carrying out of the plans for developing the water powers of the State, to which I shall presently allude. But within a comparatively short period, if these matters receive prompt consideration and the people approve, the State may be put in a position to care for all these interests in a manner worthy of their importance and its own dignity, and according to the approved financial methods which a large business concern would adopt in its own case.

The great progress that has been made under the legislation of the last session in protecting the forests from fire is most gratifying, and not only should the present stringent regulations be maintained, but all additional protection which may be found practicable should be provided. Continued encouragement should be given to tree planting and the work of reforestation should be extended as rapidly as our means will permit.

With regard to the treatment of our forest possessions I repeat what I said in my last annual message:

“Our present constitutional provision, in so far as it prevents the proper care and nurture of our forest preserve, interferes with its own object. The time must shortly come when, no longer having reason to fear the grasp of

the selfish hand and having settled the inviolability of the public interest in our priceless forest possessions, we shall make possible their scientific protection and their proper utilization for the public benefit. We may thus not only secure needed advantages in safeguarding our streams and industrial power, but we may also properly promote the health and enjoyment of the people. We shall not realize the full benefit of these great resources until we not only preserve our forests by intelligent treatment, but also by means of suitable roads and well-kept trails we make our mountain pleasure grounds, under wise regulations protecting woodland and nature's beauty, more accessible to our people and render available to the many the invigoration and the inspiration which few may now enjoy."

But in making any change in the Constitution with respect to the forest preserve, extreme caution is needed. The present provision represents an effective protest and barrier against schemes of spoliation, and it will not be, and should not be changed under the guise of providing opportunity for improved forestry methods without complete assurance that the amendments, either through undue breadth or from ambiguity, will not prepare the way for the subjection of the public domain to private interests. As long as private lumbering enterprises, in their anxiety for immediate gains at the expense of the future, countenance destructive and wasteful methods in place of scientific nurture and conservation, so long must we protect from falling in any way under similar control the neighboring public forests for which they would certainly not be more solicitous. Until standards of administration with exclusive regard for the public benefit are more securely established in public sentiment, so that in adopting a permanent forest policy we may feel sure that a strong and constant public demand will afford reasonable protection against the insidious attacks of those who look greedily upon the public treasures and against the efforts to make public officers serve the favorites and allies of political managers, we must maintain our barriers, even at the loss of some advantages.

There is general agreement that provision should be made to give authority for the sale of lands which though within the preserve are wholly outside the boundaries of the Adirondack and Catskill parks. In many cases it would be well if these should be exchanged for, or sold and the proceeds invested in properties within the parks.

With regard to any other matters, desired objects should be so specified and limited that the precise matter to be authorized by any amendment may be clearly perceived, strictly defined, and an improper invasion of the forests of the State made impossible.

WATER POWERS.

The Water Supply Commission is about to make a most important report of the result of its investigations under the act of 1907 relating to the development of the water powers of the State. An exhaustive examination, with the assistance of competent engineers, has been made of the Hudson, Genesee and Raquette river watersheds. Four great reservoir projects have been examined so as to furnish full detail with regard to location and design of dams and power plants, lands involved, cost, and probable revenue and benefits. Additional studies have been made of other rivers which have importance as sources of power. Facts with regard to existing powers, the relative importance of different streams and the probable results of additional development and the market for increased power, have been carefully ascertained.

It is estimated, for example, that complete regulation of the Hudson river with the storage required for that purpose would raise the present minimum flow of the river in a dry year from 900 cubic feet a second to a minimum of 4,600 cubic feet at Spier's Falls, and that with this increased flow and with full advantage of all power possibilities, the present development could be increased by 246,000 horse-power. It is said that a low rate for the increased power would not only provide an adequate carrying charge for a complete system, but a considerable additional revenue to the State. One of the projects relating to the Hudson development is that upon the Sacandaga,

the cost of which in the first stage, which can be dealt with separately, is estimated at \$4,650,000. Its effect would be to add 1,900 cubic feet per second regulated flow to the river and an estimated increase of power upon a conservative basis of 85,500 horse-power. At five dollars per horse-power this would provide a sum sufficient to give a considerable revenue in addition to the annual charge for interest, sinking fund and maintenance. This apparently would not involve the use of the present forest preserve property of the State.

It is impossible here to state with any degree of fullness the interesting results of these important studies with respect to the practicability of these proposed developments in connection with the rivers of the State, and their advantage to the State. Some of the projects involve the use of a portion of the land within the forest preserve. But it is said that in all only 43,000 acres of land now owned by the State, including 10,000 acres of land under water (out of about 1,500,000 acres owned by the State) would be involved by the construction of all the reservoirs which it would be practicable to construct in the Adirondacks; and this includes many possible reservoirs which it would not be necessary or economical to build. Excluding the land under water, the greater part of the remainder of these 43,000 acres is described as low, swampy and valueless, and only about 8,000 acres is said to be really timber land.

The investigation has proceeded far enough to raise the question as to the action which should be taken by the State, and I commend this subject to your most careful consideration. The following principles should, I believe, be accepted:

(1) That the flow of water in our rivers should be regulated and our water powers developed to the fullest extent that may be practicable.

This is essential to prevent unnecessary damage from floods and to ensure our industrial progress and the future prosperity of our people.

(2) That with respect to streams having their headwaters within the boundaries of the forest parks, all plans of regulation or power development should be executed only by the State, and

all reservoirs and their appurtenances and the impounded waters should be the property of the State and under exclusive State control, and not be permitted to pass into private hands.

Any such plan should embrace all necessary safeguards to ensure the proper protection of the forests.

(3) That with respect to any other streams flowing through any other public park or reservation of the State, such plans should likewise be executed by the State and it should retain exclusive ownership and control in order adequately to safeguard the State's interests.

(4) That further, as it is of great public importance that the water powers of the State should be developed in a comprehensive manner and that these natural sources of industrial energy should not become the subject of an injurious private control, such development should be undertaken by the State whenever such action appears to be feasible and for the general interest.

(5) That in any case of State development of water power provision should be made for the granting of such rights, as may be proper, to use the power so developed upon equitable terms and conditions.

(6) That the State should not undertake any plan of regulation or water-power development save upon a basis which would make its investment a fair and reasonable one from the public standpoint by virtue of practicable measures for ensuring such a return upon the State's outlay as would be equitable in the particular circumstances.

(7) That any amendment of the Constitution at this time for the purpose of permitting any portion of the forest preserve to be used for any such purpose should, by its terms, or by appropriate reference, suitably define the property within the preserve which is to be used and the manner of its use. No amendment and no plan of development should meet with any favor which, after the most rigid scrutiny, does not afford absolute assurance that in no way will the public interest in the forests be parted with or jeopardized.

CANALS.

The contracts in force for the barge canal improvement amount in total price to \$48,229,467, and the contract value of the work performed to December 1, 1909, was \$15,821,275. It is estimated by the State Engineer and Surveyor that during 1910 work will be completed amounting to \$16,000,000, and it is expected that the work for the entire length of the barge canal system will be under contract by April 1, 1910. At the present rate of progress it is said that it is not unreasonable to expect that the barge canal system will be completed by the end of the year 1914. It is further stated that the work is being carried on within the original estimates. This enterprise should be pushed to completion as speedily, as economically and as efficiently as possible.

It is of great importance that adequate terminals for the barge canal should be provided, and in accordance with the recommendation in the last annual report of the Superintendent of Public Works provision was made at the last legislative session for proper inquiry in connection with this subject. The commission appointed by the Legislature is making a careful investigation to the end that suitable terminal facilities may be secured, and it is highly desirable that this investigation should be continued and be followed by appropriate action.

HIGHWAYS.

Important progress has been made in the construction and improvement of our highways. Of the 520 miles of roads under contract when the new State Highway Commission entered upon its work at the beginning of last year, 201 miles have been completed and accepted, and of the remaining 319 miles, 75 per cent. of the work has been done. In connection with these roads supplemental agreements were made for construction of 112 miles of bituminous macadam, of which 88 miles have been completed.

During the past year there have been expended for the improvement of county roads \$2,847,261, of which the State contributed \$1,783,827 and the various counties \$1,063,434. Special attention has been paid to repair and maintenance, and \$941,000

were expended during the past year upon roads previously completed. Three hundred and seventy-five miles of road have been oiled with a heavy asphalt oil and covered with screenings or gravel.

The total amount available for town highway purposes during the past year, which was expended under the direction of the Commission, was \$3,801,732, of which there was raised by highway tax on the towns outside of incorporated villages and cities the sum of \$2,436,199, and the State contributed \$1,365,533. There was also raised for bridge purposes, \$747,340.

AGRICULTURE.

Provision should be made to promote the efficiency of the important work of the State in the protection of the interests of agriculture and to afford suitable advantages for agricultural education. In the changing conditions of our life the prosperity of the State requires the improvement and increased appreciation of agricultural opportunities, and every practicable effort should be made to this end.

During the past year an outbreak of the foot and mouth disease in western New York, and the appearance of the brown-tail moth in central and eastern New York, were dealt with so efficiently that the last trace of danger was removed. In the light of experience elsewhere, this prompt action has probably saved the State, and particularly those engaged in agriculture, losses amounting to millions of dollars.

I renew the recommendation that consideration should be given to the subject of meat inspection so that there may be proper supervision over the slaughtering of animals in the State of New York and the public health protected accordingly. The State cannot rely upon the Federal service as it does not reach establishments doing a purely local business. I am informed that animals which could not pass Federal inspection are being slaughtered within the State and the meat is being constantly sold upon our own markets. This is not only serious from the standpoint of the public health, but is against the interests of the live stock business of the State. Improvement should also

be made in connection with the inspection of milk for food by such measures as will protect the public and will conserve the just interests of the dairymen.

I again urge that there should be a revision of our laws so as to concentrate in one department the supervision of milk and dairy products and the administration of the Pure Food Law, and thereby to avoid either conflict of statutory provision or unnecessary duplication of work.

STREAM POLLUTION AND PUBLIC HEALTH.

The question of protecting our streams from impurities deserves your serious and prompt attention. The dangers from sewage pollution are so well known that no argument is required to point the necessity of insisting upon proper methods of sewage disposal; and at the same time we should proceed as rapidly as possible to free our waters from the contamination of industrial wastes. There should be such amendment of our present law as will give adequate authority to deal with these matters by effective and impartial regulation, and existing provisions which are relied upon as affording exceptions or immunities interfering with such authority should be eliminated. Gratifying progress has been made, but it should be hastened and we should not only remove hindrances that are found in the present laws, but should also, particularly in the case of industrial wastes, conduct suitable laboratory experimentation under State authority so that difficult problems of disposal may promptly be solved.

At the last session of the Legislature it was sought by suitable measures to provide checks against the spread of tuberculosis. This movement should be strengthened in every way that may be found advisable.

I have formerly called attention to our anomalous system of supervision of the sale of drugs under the present Board of Pharmacy. The bill passed at the last session with relation to this matter was disapproved as it did not provide for the constitution of a board of suitable powers, the members of which should be properly designated by and amenable to State authority. I submit this subject for your further consideration.

PUBLIC SERVICE COMMISSIONS.

I again recommend that the Public Service Commissions Law should be extended to telegraph and telephone companies, and that these companies should be brought under appropriate regulation as to rates, service and other matters similar to that which has been provided for corporations at present subject to the law. The events of the past year have served to emphasize the importance of adequate supervision and regulation, and I know of no sound reason for excluding these activities from the established policy of the State.

Such amendments of the Public Service Commissions Law as experience has shown to be advisable, to improve its provisions, to aid administration or to carry out the intent of the statute, should be supplied.

I disapproved the Consolidated Railroad Law passed at the last session because the inclusion in the consolidated statute (if enacted as worded), of the provisions of sections 37 and 38 of the Railroad Law, with regard to rates and charges, might form the basis for a claim that it was the intention of the Legislature to continue these provisions, notwithstanding the subsequent enactment of the Public Service Commissions Law. I advise the formal repeal of these provisions of the Railroad Law. And if a consolidated statute, without a general revision, is enacted—the wisdom of which is open to serious question—they should be omitted.

ELECTIONS.

There is just and widespread demand for improvement in election methods. As I stated in my last annual message, progress in solving the problems of State government would seem to involve the concentration of responsibility with regard to executive powers. To accomplish this there should be a reduction in the number of elective offices. The ends of democracy will be better attained to the extent that the intention of the voters may be focused upon comparatively few offices, the incumbents of which can be held strictly accountable for administration. This will tend to promote efficiency in public office by increasing the effectiveness of the voter and by

diminishing the opportunities of political manipulators who take advantage of the multiplicity of elective offices to perfect their schemes at the public expense. I am in favor of as few elective offices as may be consistent with proper accountability to the people, and a short ballot.

But while this is a desirable aim, it does not justify closing our eyes to the situation as it exists and losing sight of improvements which are more closely within our reach.

The Governor, Lieutenant-Governor, Secretary of State, State Comptroller, Attorney-General, State Treasurer, State Engineer and Surveyor, Senators, Assemblymen, Sheriffs, County Clerks, District Attorneys, County Registers and Supervisors, as well as Judges of the Court of Appeals, Justices of the Supreme Court, County Judges, Surrogates and Justices of the Peace are elective officers under the State Constitution. It would be an improvement, I believe, in State administration if the executive responsibility were centered in the Governor who should appoint a cabinet of administrative heads accountable to him and charged with the duties now imposed upon elected State officers. But it is apparent that such a change would require revision of our constitutional scheme. Some progress might be made by the reduction of elective officers in municipalities and in the case of certain minor statutory offices. It is idle, however, to expect under the present Constitution to achieve what is really a short ballot, and those who limit themselves to this effort neglect, in my judgment, present opportunities so far as this State is concerned.

What is practicable and helpful now should not be ignored. In considering advisable changes, or amendments of the law, there may be noted:

(1) *The Form of the Ballot:—*

The defective form of the present ballot has lately had conspicuous illustration. It became such a monstrosity in the recent election in New York city as to receive a well-nigh universal condemnation. The ballot there presented to the voters was about four feet wide and had nineteen columns for city candidates. The name of one candidate for mayor appeared eight

times in as many separate columns; another four times; while the names of five candidates for mayor appeared but once. The names of certain candidates for comptroller and for president of the board of aldermen occurred seven times, and of others five times. The names of three candidates for justices of the Supreme Court occurred four times, and those of their principal competitors three times. The third party column upon the ballot contained no nominations for the general city ticket, while the name of the candidate for mayor associated in the public mind with the name and emblem of this party appeared in the eighth column. For example, in the tenth election district of the twentieth assembly district in the county of New York, the ballot contained 184 names, although there were only 19 offices to be filled and only 84 separate candidates; in addition much space was wasted in blanks, and one party column contained no nominations whatever.

The use, under legal sanction of such an unwieldy ballot with its absurd duplications, in the most important municipal election held in this country, is such a serious reflection upon our capacity to devise suitable election methods that we should hasten, out of very shame, to make needed correction.

This form of ballot is the outcome of a desire to favor party arrangements and straight voting, by providing separate columns for the various parties respectively, which involves similar provision for the ephemeral associations or independent bodies which may spring up with their emblems and candidates. It is plainly an unfair advantage for the same candidate to appear in several columns and in different combinations; nor should an official ballot favor schemes to capture party columns and emblems.

I have repeatedly recommended the adoption of a simplified form of ballot in which the names of the candidates for the respective offices shall appear but once, grouped under the names of the offices. Party designation and emblems may appear opposite the candidate's name. The party column is not essential to proper party work and what is fair for one party is fair for another. The party voter and the independent voter should be on the same footing in the polling booth. It is of the highest

importance to the community that the voter should be encouraged to exercise care in his choice and this will be favored if he is required to express his preference separately in the case of each office. The large number of elective offices is no reason for making it easy to vote without discrimination, but we should insist upon proper care and thus enforce attention to such further improvements as may be advisable.

(2) *Corrupt Practices*:—

The law with respect to corrupt practices, while not yet achieving all the results desired, has proved to be of great benefit in its requirements of publicity and accounting. There should be a constant effort to perfect it in the light of experience. I renew the recommendation that provision should be made for publicity as to all campaign expenditures, without exception, and that a reasonable limit should be placed upon the number of those who may be compensated as poll workers in any election district.

(3) *Constitutional Amendment*:—

Our experience at the last election with regard to the constitutional amendments submitted for adoption shows a lamentable lack of sense of responsibility on the part of our citizens with respect to changes in the fundamental law. This in part may be due to want of familiarity with the proposals. And I again urge for your consideration that appropriate means should be devised to apprise voters of the nature of amendments submitted. The delivery of the text of the amendments at the time of registration in districts where personal registration is necessary, and suitable notification elsewhere, would be of no little advantage.

DIRECT NOMINATIONS.

In my message last year I stated the reasons which have led me to favor the adoption of a system by which party candidates for elective offices shall be nominated directly by the party voters. It is unnecessary to repeat them. They are based upon facts commonly known and upon the existence of evils which

arguments cannot explain away and to the continuance of which the people remain unreconciled. The ordinary party member, who cannot make politics a vocation, feels that he is practically helpless, a victim of a system of indirect, complicated and pseudo-representative activities which favor control by a few and make party candidates to a great extent the virtual appointees of party managers. Party voters are largely out of sympathy with their party organization because they believe that its powers are abused and its purposes perverted.

Favoritism in departments of administration, the nonuse or misuse of supervisory powers, and the shaping or defeat of legislation to protect particular concerns or interests — in short, the degree of success which has attended the efforts of those who have not been entrusted with governmental authority to dominate the action of public officers and to place and keep in power those who will be amenable to their control — may be traced in large measure to the methods which have been in vogue in making party nominations. Through these abuses not only has the general public suffered, but parties themselves have had their efficiency impaired. And even those who have sought ably and honestly to direct party affairs have, to some extent, been involved in the disrepute which has followed upon the manipulations of the unscrupulous. A system which favors autocracy in party government is opposed to every proper interest.

Against the proposed change has been urged the familiar argument that human nature cannot be altered. But the present system is not an essential part of human nature. Our keen appreciation of the failings, weaknesses and temptations which must always be conspicuous in human activity should not cause us to yield to the counsel of despair, but should rather stimulate the effort to make every possible improvement in the methods of political action. The fact that human nature cannot be changed is no reason why we should not provide safeguards against the play of its infirmities.

It should also be observed that while in considering remedies we should avail ourselves of all pertinent information and experiment, we must ultimately deal with the facts of our own

experience. Variant conditions in the different States may be useful for the purposes of general history but can afford slight help in the solution of our own problems. Arguments derived from opinions which are addressed to a different state of facts or to measures not analogous are of slight value.

There is no matter of graver public concern than the methods of party action. Our officers of government are usually those selected by one or the other of the two great national parties. The Constitution of the State expressly recognizes political parties and confides, in equal representation, to such parties as cast the highest and next highest number of votes at general elections, the discharge of the important public duty of registering voters, distributing ballots to voters at the polls and of receiving, recording and counting the votes of electors. Political parties which enjoy these privileges and opportunities cannot justly be regarded as mere associations whose methods and transactions lie outside the domain of reasonable and impartial regulation in the public interest. It is of the highest consequence to the party voters and to the public at large that so far as possible there should be protection against abuses in the conduct of party affairs.

There must be party committees and those who take charge of the management of campaigns, and are entrusted with the supervision of party administration. But the method of their selection should provide proper checks upon efforts to defeat the wishes of the party voters or to perpetuate their power by using the party machinery for their own advantage. Members of party committees should take and hold title to their offices through the direct choice of the party voters to whom they should be directly accountable.

The party primaries should be surrounded with all possible safeguards. I urge again the recommendations for this purpose that I made last year:

"(1) That provision be made for the enrollment of party voters throughout the State, and that participation in primary elections be limited to the enrolled party voters, with stringent measures to prevent fraud. The enrollment may be made in

substantially the same manner as is provided for with regard to registration.

“(2) That the expense of holding primary elections, including the printing of official ballots, provision of polling places and the like, be borne by the public.

“(3) That the Corrupt Practices Act be extended so as to prescribe the expenses which may lawfully be incurred in connection with candidacies for nomination and to ensure the publicity of all expenses.

“(4) That the amount which may be expended by candidates for nomination be limited.

“(5) That generally, with such changes as may be necessary for adaptation, the safeguards of the law governing general elections be extended to primary elections.”

I also renew the recommendation that a system of direct nominations by all parties for all elective offices, other than those of presidential electors, filled at the November election or at special elections called to fill vacancies in such offices, be provided.

Primary elections should not only be safeguarded, but they should accomplish their purpose, and that is to make the participation of the voters effective and their wishes decisive in the selection of those who are to hold party positions and of party candidates for office. The party voters can act more intelligently in the direct choice of candidates than in the choice of delegates. The former are publicly discussed; their qualifications are analyzed; the genesis of their candidacies is considered; and the public opinion of the respective districts may be ascertained. Delegates at the best are uncertain, and public attention cannot be riveted upon them to the same degree. If they are absolutely pledged they are simply registering devices and an unnecessary and a cumbersome addition to the party machinery. If they are not pledged absolutely the party voter has no proper assurance either of their allegiance or of their deliberation. They lend themselves easily to secret control by party managers and furnish the means not for true representation, but for nonrepresentation, or misrepresentation of the party. It is not difficult to provide, and provision should be

made, for all necessary consultation and recommendations by party leaders. But they do not constitute the party and their recommendations, which should be made in a responsible and public manner, as well as all other proposals of candidacies should be subject to the final decision of the party voters.

It is no more complicated or expensive to have a primary election, under due protection and with an official ballot, at which the party nominees shall be directly chosen, than to have a similar election of delegates. There are no greater opportunities for fraudulent practices in the former case than in the latter, nor as many. It is difficult to interest the people in intermediaries, and general participation of the voters in the primaries is conditioned upon their appreciation of the fact that they accomplish something by such participation. If it be desired to have the form without the substance, to have representatives who as a rule do not represent, and those chosen for deliberation who usually do not deliberate, and to transfer the absolute decision to party leaders with the alternative to the party voter of bolting his ticket and meeting the reproach of party disloyalty, the present system may be defended. But if it be desired to have true party representation and that the party members should express decisively their wishes, this may be accomplished through a direct vote.

SPECULATION.

In view of the evils incident to speculation and of the importance of sound business methods in connection with our vast transactions in securities and commodities, I requested in December, 1908, Messrs. Horace White, Charles A. Schieren, David Leventritt, Clark Williams, John B. Clark, Willard V. King, Samuel H. Ordway, Edward D. Page, and Charles Sprague Smith to collect facts, receive suggestions and make recommendations with regard to the following question:

“What changes, if any, are advisable in the laws of the State bearing upon speculation in securities and commodities, or relating to the protection of investors, or with regard to the instrumentalities and organizations used in dealings in securities and commodities which are the subject of speculation?”

While in the absence of authority a formal commission was not constituted, I believe that the opinion of these gentlemen after full inquiry, by reason of their established reputation and varied experience, would be a most important aid to a proper understanding of the subject and to an estimate of the value of legislative proposals. Their report, which I received after the adjournment of the last session, reflects their careful study of the difficult questions involved and for the laborious and unselfish service which they have rendered, without compensation and at their own expense, they are entitled to the grateful appreciation of the people of the State.

I transmit this report herewith and I commend it, and particularly its specific recommendations with respect to legislative enactment, to your most serious consideration.

LABOR.

Existing conditions with regard to employers' liability and compensation for workmen's injuries are so unjust that there should be remedial action as soon as it can be taken intelligently after competent investigation. The present methods are satisfactory neither to employer nor employed and the rules of law governing legal liability offend the common sense of fairness. Under the legislation of the last session a commission, broadly representative in character, was appointed and authorized to make full inquiry with respect to industrial accidents and their causes, and also into the causes of unemployment and the means of securing a better distribution of labor. The work of this commission should be supported, and it is hoped that its labors and recommendations may lead to the adoption of comprehensive measures which will avoid the present waste and injustice, and promote contentment and prosperity by securing improved conditions for those engaged in industrial occupations.

CONDITIONS OF ALIENS WITHIN THE STATE.

The commission appointed under chapter 210 of the Laws of 1908 has made its report to the Legislature, and I invite your attention to the importance of suitable measures to remedy, so far as may be, the evils which it disclosed. Our laws should be

adapted to meet the exigency which arises from the introduction of so many into our population who are unfamiliar with our usages and laws and are the ready victims of manifold impositions. We cannot afford to regard with cynical indifference the condition and opportunities of those who have recently come to us from foreign lands, and we should be solicitous to make such improvement in our laws and administration as will reach the special abuses which have been found to exist. It should be considered to what extent they may be reached through existing governmental agencies and how far it may be necessary to improve these agencies to ensure practicable correction. It is desirable that there should be legislation imposing more effective restrictions upon the business of private individuals who receive deposits of money in small sums. The conditions of labor camps in connection with public works should also receive proper attention. The importance of suitable vital statistics and of public records of aliens remaining in our State should be recognized, and it should also be considered whether it is not feasible to adopt some means to promote their better distribution.

NOTARIES PUBLIC.

The able report of this commission has also shown the importance of better methods in the selection and supervision of notaries public. These are now appointed by the Governor, (with the advice and consent of the Senate, if in session), and are removable by the Governor upon charges. There are approximately 26,000 notaries public in the State. It has been customary to appoint them upon recommendations which appeared satisfactory. It is manifestly impossible for the executive department with its present equipment to deal with the matter satisfactorily. The qualifications for appointment should be subject to a more careful examination. This matter might perhaps be confided to the Supreme Court under rules for the granting and revocation of licenses and examination, through committees or otherwise, with respect to the reputation and character of applicants, and these rules, to secure uniformity, might be formulated by the Court of Appeals.

STATE INSTITUTIONS.

The needs of our charitable institutions and hospitals for the insane are very urgent. Provision must be made in the near future for the New York Training School for Boys and to carry out the plans with respect to Letchworth Village. Several of our hospitals for the insane are overcrowded and it is estimated that after all the accommodations already provided for have been supplied, there will be a shortage, by October, 1910, of proper accommodations for 1,600 patients. The annual increase of patients is about 1,000. The need of a new hospital at an early date is apparent. We must also proceed with the work of providing additional prison accommodations.

I have repeatedly emphasized the importance of co-ordination in our institutional work. It is doubtless of advantage that the work of different classes of institutions should be under separate control. But it is entirely consistent with this control to provide for consultation, for harmony of effort and for joint action wherever it will be to the advantage of the State.

It is not wise to have salaries of subordinate employees fixed directly by the Legislature, and these should be determined by a board representing those in charge of the different classes of institutional work, so that there should be a reasonable degree of uniformity. Where joint purchases are profitable, there should be authority to make them, and provision through such a representative board as I have mentioned for an interchange of experience and united action if feasible.

The various agencies of the State should not be estranged from each other, and the knowledge of each department should be availed of by the others. For example, agricultural experts in the employ of the State should examine the different farms connected with our State institutions, and their advice should be obtained with regard to their best uses and methods of cultivation, and provision should be made for such exchange of products between the institutions as may be found desirable.

Supplies, so far as possible, should be standardized and there should be proper provision for inspection to ensure conformity to standard specifications.

BUDGET-MAKING AND ECONOMY.

In passing upon the appropriations made at the last session I suggested that there should be provided some permanent method for comparative examination of departmental budgets and proposals for appropriations in advance of the legislative session so that the Legislature might be aided by preliminary investigation and report in determining with just proportion the amounts that can properly be allowed. It is gratifying to note the progress that has already been made in securing comparative estimates of the needs to be provided for at this legislative session. But there should be a definite plan adopted for the future.

I recommend that it be provided that on or before December 1st in each year there should be filed with the Comptroller by each State officer, head of department or commission, and by any other person or association desiring appropriations for a particular purpose, a statement in detail of the amounts required and of the reasons therefor, and that the Comptroller should be instructed to tabulate these requests and submit the tabulation in printed form with comparative data and estimates of income to the Legislature and to the Governor on the first day of the session.

This will ensure desirable publicity with respect to the demands upon the State, will greatly facilitate the legislative committees in dealing with questions of appropriation, a work which constantly grows more laborious, and will tend to expedite the business of the session. It will also prepare the way for such further methods of examination, comparison and criticism as experience may show to be advisable. While the Legislature will have the power to make suitable appropriations whenever requested, it will not be difficult to establish the tradition that except in cases of emergency, requests for appropriations will not be regarded with favor unless filed at the stated time.

The pressure upon the State is so great, not only from the increasing work of the departments, but more particularly by reason of the extent of the demands in connection with the erection of public buildings and the growing requirements of

State charities, hospitals for the insane and prisons, that the strictest economy must be pursued. Whatever outlays are needed to ensure proper efficiency should be provided. It is idle to maintain costly State departments of supervision if examinations are a mockery and a mere cover for favoritism and illicit opportunities. If it is the business of a department to make examinations, it should make them, and whatever force is necessary to have them made thoroughly and with reasonable frequency should be provided. But wasteful expenditures whenever ascertained should be stopped. And it should be the constant desire of every head of a department to find out, not simply how he may extend his work for the good of the State, but how he may save the State by abolishing unnecessary places, concentrating effort and securing more faithful and expert service.

SYSTEMATIC APPROPRIATIONS.

In connection with outlays for public buildings, and for improvements and extension of institutional work, including education and charities, it seems to me that the effort should be made to provide a tentative program for a series of years which, while of course not binding upon succeeding Legislatures, would have an important influence in shaping appropriations in accordance with a comprehensive plan and avoid, so far as possible, ill-timed or indiscreet allowances. The various demands could be classified so as to define (1) those relating to enterprises which are in progress or to which the State is already committed; (2) the further outlays that may be required to bring existing institutions as units of State work to the highest available degree of efficiency, and such additional facilities as may be needed in connection with the expected increase in population; (3) such new institutions or lines of State activity as present judgment would approve in case there were means sufficient for their establishment.

The amount necessarily required each year for the purposes of the first two classes, and the order of requirement and the surplus of expected income available for the third class, should be ascertained. The necessary amounts should be so distributed that no more than that reasonably required by the

proper progress of the work should be charged against the income of any one year. In this way a conspectus may be provided, say for a period of five years, showing the imperative demands upon the treasury of the State and the outlays deemed advisable. Those urging the State to undertake new enterprises would thus see the relative importance of the various requests and there would be less risk of improvident or inopportune outlays.

I believe that special appropriations for roads, river improvements and other purposes for the benefit of particular localities should be avoided so far as possible. All improvements of highways should be under the supervision of the Highway Commission, and any amendment of the law needed to give the Commission full jurisdiction should be supplied. Similarly the law relating to river improvements should be amended, if necessary, so as to remove any question as to the power of the Water Supply Commission to provide for such improvement of waterways (outside of the canal system) and for such supply of ditches, dikes and the like as may be necessary, after due ascertainment by the Commission of the extent to which the expense should be borne by the localities benefited and the part, if any, to be charged upon the State. The practice of providing for such improvements by special acts or by items in appropriation bills which place the entire cost upon the State without regard to the benefit derived by the cities, towns and counties concerned, is unjustifiable and should yield to a general method which will permit these matters to be dealt with in justice to all interests.

INSURANCE.

The work of the Department shows the importance of frequent examinations, and I recommend that adequate provision be made for this purpose. The statute providing for liquidation of companies under the supervision of the Department has operated to great advantage and has made it possible to avoid the wasteful and expensive methods formerly incident to liquidation proceedings. Such force should be supplied as may be necessary to carry its provisions into full effect.

I also advise that the business of Lloyds' insurance in this

State should be put upon a proper basis, and that such legislation be adopted as will make it impossible for business to be conducted except under conditions which ensure adequate protection.

The supervision of co-operative fire insurance companies should also be made more effective by legislation adopted to secure safe and suitable methods.

I am informed that a proposed uniform bill regulating the policies which may be issued by insurance companies against accidental bodily injury or disease, drafted by a committee of their members, after investigation, has been adopted by the State Insurance Commissioners at their national convention. I recommend this proposal following upon the effort which has been made to provide either standard policies, or standard provisions in policies of insurance, to your careful consideration.

MUNICIPAL GOVERNMENT.

There should be constant effort to minimize the amount of special legislation sought for in connection with municipal charters. Where amendment is needed the aim should be to provide a general provision which at least will make further application to the Legislature unnecessary. While the problems of municipal government are being studied and various experiments are pointing the way to their solution, we should endeavor to enlarge the freedom of local government and remove from the field of legislation the host of petty demands which annually encumber the work of the Legislature. There should be early revision of the charter of the city of New York.

The adoption of the constitutional amendment with regard to the debt limit in that city imposes upon the Legislature the duty of prescribing the method by which, and the terms and conditions under which, the amount of any debt to be excluded in ascertaining the extent of the city's borrowing power shall be determined. This should receive the most careful attention to the end that, while the intent of the constitutional amendment shall be fully carried out, the city shall be protected by proper and accurate methods of computation and accounting.

The work of the criminal courts of inferior jurisdiction in our large cities is of the greatest importance in the administration of justice and has close relation to the respect in which the law and judicial authority are held. I trust that the inquiry which has been prosecuted under legislative direction will result in establishing these courts upon a better basis and in improving their work.

AUTOMOBILES.

There is obvious necessity for the improvement of the regulation of motor traffic. I believe that a substantial license tax should be imposed for the privilege of operating motor vehicles within the State, the proceeds to be devoted to highway repair. But the matter of first importance for your serious consideration is the provision of adequate safeguards to protect the lives of our citizens. The operation of motor vehicles should be prohibited save by those who upon proper examination and after tests specially adapted to their work are found to be duly qualified and are licensed accordingly under proper State authority administering a system of uniform application. These licenses should be subject to suspension and revocation, and in case of repeated infractions of the law the guilty person should not only forfeit his license, but be debarred from receiving another in the future. It should be made a crime in itself, with severe penalty, for any one to seek to escape after an accident to which his act has contributed.

PENAL LAW AMENDMENTS.

Bookmaking.—The Legislature in 1908 abolished the distinction which had existed in favor of public gambling at race tracks and made the law relating to public gambling the same inside the race track inclosure that it was and long had been outside save as the punishment was increased. The Penal Law, section 986, prohibits bookmaking. As ordinarily prosecuted, the business of bookmaking requires the paraphernalia or recording which the statute describes. As stated by the Court of Appeals, by Haight, J., in *The People ex rel. Lichtenstein against Langan*, "It is perhaps true that a bookmaker may retain in his own mind the memory of the odds where three or

four horses only are entered in a race so that he could state the odds orally to others; but it would be difficult for him or his customers to remember the precise amounts in many transactions and base their bets thereon, and, consequently, but very few bets could be taken under such circumstances. The masses could not be drawn into the scheme and their money obtained without some writing or entry that they could rely upon. * * * The vice of bookmaking chiefly consists in the solicitation and in the inducing of the public to take chances in the carefully figured and planned scheme of the bookmaker, and this in order to be made profitable to him, requires the writing out of the lists of odds laid on some paper or material so that it could be seen by those who were solicited to invest."

In view, however, of the efforts that have been made to evade the statute, and despite its prohibitions to continue the business of bookmaking, either without recording in the usual way or with records so concealed as to make detection difficult, I recommend that the law be amended so as to penalize the practice of bookmaking, even though there be no recording.

Procuring.—In view of the revelations that have been made as to procuring and trafficking in women for the purpose of prostitution, I recommend for your consideration the enactment of whatever additional or more stringent provisions of law may make our statute more efficacious.

UNNECESSARY OFFICERS.

I again recommend that the Board of Port Wardens be reduced to five members, in lieu of the present board of nine.

I also recommend that the positions of Supervisors of Running Race Meetings and Trotting Race Meetings be abolished and their duties be transferred to the State Comptroller, to be performed by his subordinates.

JUDICIAL PROCEDURE.

The delays and wastes which characterize condemnation proceedings constitute a grave public scandal. All public officers concerned in this matter should be solicitous to demand proper regard for public duty. Measures should be devised to provide

more economical and careful methods, and if it should be deemed necessary to amend the Constitution an amendment should be prepared and submitted.

I urge upon your attention the importance of simplifying the procedure of our courts. The natural disinclination to interfere with the methods to which we are accustomed, and to avoid raising controversies over provisions of new statutes, should not discourage the effort to reduce the importance of technicalities in litigation and to facilitate the speedy disposition of causes upon their merits. This subject is engaging the attention of careful students, and any measures, although not comprehensive, which may prove an aid in minimizing the delays of litigation and in destroying the opportunities of professional controversy for its own sake, should receive favorable consideration.

CHARLES E. HUGHES.

CORRESPONDENCE

RELATING TO THE

**Gift to the State by Mrs. Edward H. Harriman, and also
to the Private Contributions Offered for the Improve-
ment and Extension of the Palisades Park
and for the Development of the Proposed
Park in the Highlands of the Hudson.**

**Submitted to the Legislature by the Governor with his
annual message of January 5, 1910.**

**CORRESPONDENCE WITH RESPECT TO THE GIFT
TO THE STATE BY MRS. EDWARD H. HARRI-
MAN.**

**Letter from Mrs. Edward H. Harriman to Governor
Hughes, dated December 15, 1909**

ARDEN, N. Y., *December 15, 1909.*

HON. CHARLES E. HUGHES, *Governor of the State of New
York:*

DEAR SIR.—In conformity with the plans heretofore proposed by the late E. H. Harriman, in correspondence with you, I propose to convey to the State of New York, on certain conditions, a tract of land situated in Orange and Rockland counties, comprising about ten thousand acres, to be held by the State in perpetuity, as a State park. And in furtherance of the same object, I wish to give to the State, or to such board or commission as may be designated under proper legal authority to receive and administer the trust, the sum of \$1,000,000. It was Mr. Harriman's wish, and is my expectation, that this fund should be used by the State to acquire other parcels of land, adjacent to the above-mentioned tract, and intervening between it and the Hudson river, and in the improvement of the whole, so that the park may ultimately have some portion of river front, and thus, by improved accessibility, be rendered more useful and beneficial to the people of this city and the neighboring counties.

If you will kindly cause such action to be taken as will indicate the acceptance of this gift on the part of the State, and designate the agency through which the State will accept and administer the same, I shall be ready to complete the matter at any time. If it seems wise to you that the jurisdiction of the present Palisades Park Commission should be extended, so as to include the care and development of the proposed park, such a result would be entirely agreeable to me.

Yours very truly,
(Signed) MARY W. HARRIMAN.

**Letter from Charles A. Peabody to Governor Hughes,
dated December 28, 1909**

2 WALL STREET, N. Y., *December 28, 1909.*

Hon. CHARLES E. HUGHES, *Governor, etc., Albany, N. Y.:*

DEAR SIR.—Referring to the letter of Mrs. Edward H. Harriman, under date of December 15, 1909, which she transmitted to you through me, it has occurred to me that the conditions referred to in her proposal should be set forth more in detail in order to make clear, at this time, her view as to the terms upon which her proposed grant will be made.

In addition to the condition that the land conveyed by her to the State should be held for use as a public park, she proposes to add a further condition, in effect providing that if the State, or any person or corporation under the authority of the State, shall hereafter condemn or seek to condemn other land in Orange county belonging to her or her descendants, the land which is the subject of this grant shall thereupon revert to her or her heirs.

It is proper to say that, adjacent to the proposed park on the north, is a tract of land which now constitutes Mrs. Harriman's residence, and it has occurred to her that if some future suggestion as to the enlargement of the park should have in contemplation the condemnation, under the power of the State, of other lands of hers, it might greatly interfere with her plans as to the future, and she would not wish her gift to the State to be made the starting point of such a proceeding. She realizes that the exercise by the State of its power of *eminent domain* probably cannot be limited by any agreement, and it has seemed, therefore, wise that this gift on her part should be made conditional upon there being no attempt in the future to encroach on what she desires to retain for her own use.

In my conversation with you on this subject, I understood that this reservation on her part did not seem to you unreasonable or objectionable, and I hope that the attainment of the great object in view may be accomplished consistently with this plan.

Yours very truly,

(Signed) CHARLES A. PEABODY.

Letter from Governor Hughes to Mrs. Edward H. Harriman, dated December 29, 1909

STATE OF NEW YORK — EXECUTIVE CHAMBER.*

Albany, December 29, 1909.

MRS. EDWARD H. HARRIMAN, *Arden, N. Y.*:

DEAR MADAM.—Mr. Peabody has sent to me your letter under date of the 15th instant in which you propose to convey to the State of New York, on certain conditions, a tract of about ten thousand acres of land situated in Orange and Rockland counties to be held by the State in perpetuity as a State park, and further to give to the State, or to a duly authorized board or commission, the sum of one million dollars in trust to be used by the State in order to acquire other parcels of land, adjacent to the above-mentioned tract, and intervening between it and the Hudson river, and in the improvement of the whole, so that the park may ultimately have some portion of river front and thus be rendered more useful and beneficial to the people of the City of New York and the neighboring counties.

I have also received a letter from Mr. Peabody under date of the 28th instant in which he describes the nature of the conditions to which you refer, to wit, that in addition to the condition that the land conveyed by you to the State should be held for use as a public park, it shall also be provided that if the State or any person or corporation under its authority shall hereafter condemn or seek to condemn other land in Orange county belonging to you or to your descendants, the land which is the subject of your grant shall thereupon revert to you or to your heirs.

Permit me to express my deep gratification at this generous action on your part, in carrying out Mr. Harriman's wishes, through which there will be supplied a nucleus for the development of a highland park of rare beauty and charm which will prove of inestimable value to the people of the State, and particularly to the multitudes congregated in our greatest city. There can be no worthier benefaction than to protect the scenery of this region from ravage and to create a public park, at the very door of the Metropolis, where may be afforded

opportunity for recreation and enjoyment amid unrivalled surroundings stimulating alike to the love of nature and the sentiments of patriotism.

Great as will be the pleasure of the people at the announcement of your gift, I am sure that in the years to come there will be a constantly growing appreciation of its importance to the State and of the liberal disposition and farsightedness which prompted it.

I shall take pleasure in recommending to the Legislature that appropriate measures be enacted to provide for the acceptance of your gift and its use by the State for the purposes you have indicated. With high respect, I have the honor to remain,

Very sincerely yours,

(Signed) CHARLES E. HUGHES.

**Letter from Governor Hughes to Charles A. Peabody,
dated December 29, 1909**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, December 29, 1909.

Mr. CHARLES A. PEABODY, 2 Wall St., New York City:

DEAR SIR.— I have received your letter of the 28th instant, in which you refer to the letter of Mrs. Edward H. Harriman under date of the 15th instant, transmitted to me through you, and explain on her behalf the conditions upon which her proposed grant is to be made. I inclose a letter to Mrs. Harriman which I shall be glad to have you place in her hands; and in my coming message I shall present the matter to the Legislature, with copies of the correspondence, recommending suitable legislation for the acceptance of the gift.

With appreciation of your own interest in this important proposal, and thanking you for your letter, I remain,

Inclosure.

Very respectfully yours,

(Signed) CHARLES E. HUGHES.

**CORRESPONDENCE RELATING TO THE PRIVATE
CONTRIBUTIONS OFFERED FOR THE IMPROVE-
MENT AND EXTENSION OF THE PALISADES
PARK AND FOR THE DEVELOPMENT OF THE
PROPOSED PARK IN THE HIGHLANDS OF THE
HUDSON**

**Letter from George W. Perkins, President of the New
York Palisades Park Commission, to Governor Hughes,
dated November 22, 1909**

OFFICE OF THE NEW YORK PALISADES PARK COMMISSION,
31 NASSAU STREET.

New York, November 22, 1909.

Hon. CHARLES E. HUGHES, *Governor of the State of New
York, Albany, N. Y.:*

DEAR SIR.—The New York Palisades Park Commission, in connection with its work, begs leave to submit the following for your consideration:

The work of stopping the blasting on the Palisades has been concluded and the New York Commission, working jointly with the New Jersey Commission, has acquired all of the face of the cliffs from Fort Lee ferry to Piermont, New York, including the riparian rights for the entire distance. This has been done within the limits of the appropriations made to the Commission for this purpose nine years ago.

During this period of time the land which has been acquired has come to be used so generally by the population of New York as a recreation ground, that the Commission has been impressed with the necessity of enlarging the district and making it more accessible to the great population so near at hand. This could be done by making this strip of land the gateway and approach to land above the Palisades, where a much larger park could easily be reached and made available for the people.

Owing to the growth of New York city to the northward, and the towns along the New York Central road, it would be impossible to acquire land for an easy exit or for park purposes

to the northward of New York city on the east side of the Hudson river. By crossing the Hudson river at 125th street, however, one immediately reaches the south end of the Palisades park, and if at that point a park were commenced which would include a roadway running north, such roadway would soon reach the uplands where land can still be acquired by the acre at reasonable figures. Not only could this property be reached by land along the base of the Palisades, but it could be reached by water from New York city at very low excursion rates.

When the Commission was first created its jurisdiction extended only to Nyack, N. Y. Believing that the Palisades proper were only an approach to what ought to be done in the way of park development further up the State, the Commission's jurisdiction was extended in 1906 to Stony Point, and it was given the power to select and locate such mountain lands along the west bank of the Hudson river, in Rockland county, as in its opinion might be proper and necessary for the purposes of extending the limits of the park and preserving the scenic beauty of the mountain lands along the bank of the Hudson river north of the Palisades; and in this connection it was given the power to take such lands, in fee or otherwise, by purchase, gift, or eminent domain, and to receive by gift, contribution or bequest moneys to be used in acquiring or improving such lands; conveyance of the said lands to be made to the Commissioners in their corporate name.

You will see from this that the Commission now has jurisdiction over the mountains and uplands running back from the Hudson river, in Rockland county. Part of the territory thus covered by the Commission's new jurisdiction includes the Hook mountain district.

The plan of the Commission, under which the Palisades proper have been saved, was to raise a certain amount of money from individuals and have the State contribute approximately as much more. Under this plan individuals have contributed, up to date, about \$300,000 in money and land to the Commission's work of acquiring land, etc.; the State of New York has contributed \$400,000 and the State of New Jersey \$50,000.

The suggestion that the Commission now makes for your consideration is this: The Commission believes that a number of wealthy people would now give substantial amounts of money and land for the purpose of constructing a roadway along the Palisades, stopping the blasting at Hook mountain, and acquiring lands in Rockland and Orange counties for the purpose of a great State park in that neighborhood, provided that, in your judgment, it would be wise to urge the Legislature this winter to appropriate as much money for these purposes as individuals might contribute. In other words, if the aggregate contributions of individuals amounted to two and one-half million dollars would you favor asking the Legislature to appropriate two and one-half million dollars?

If this suggestion meets with your approval the Commission would need to have your support in seeking to have its jurisdiction once more extended, as it was two years ago, so as to include the land adjacent to the Hudson river to a point as far north as Newburgh.

In connection with this entire plan the Commission desires to call your attention to the location selected recently for a new State prison. This location is at a point which would be within the development of any such park as is contemplated, and if, in your judgment, it were expedient to consider removing the prison site to some other point, the Commission believes that such action would be most helpful in securing private contributions of money and land.

If you should desire to have the New York Commission go on and take up some such plan as is above outlined, and the whole plan should involve an expenditure of five million dollars, it would, of course, not require the expenditure in one year by the State of the suggested two and one-half million dollars. Indeed, the expenditure might be arranged in some such way as the Commission's original appropriation by New York State, which provided that it be allowed \$200,000 the first year and the remaining \$200,000 during the second year or as actually required thereafter.

The encouragement the Commission has received from individuals of late, as to what might be done in the way of private gifts to such an enterprise, makes it seem its duty to lay the

whole project before you for your consideration, and await your advice and instructions before proceeding further.

Respectfully submitted by

THE NEW YORK PALISADES PARK COMMISSION,

(Signed) GEO. W. PERKINS,
President.

**Letter from Governor Hughes to George W. Perkins,
President, etc., dated November 23, 1909**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, November 23, 1909.

HON. GEORGE W. PERKINS, *President, Palisades Park Commission, 31 Nassau St., New York City:*

DEAR SIR,— Your letter of the 22d instant has been received. I desire to express my high appreciation of the work already done by the Commission and of the importance of the contemplated extension of it. It is very desirable that a roadway should be built along the Palisades adding to the accessibility and use of this district and also forming a suitable approach to a highland park. The blasting at Hook mountain should be stopped and its scenic beauty preserved, and the State should acquire an adequate reservation in Rockland and Orange counties which would not only conserve the rare beauties of that region, but provide an unsurpassed recreation ground for the people. This section is within such a short distance of the city, and can be made so easy of access, that the establishment of an adequate park for the public enjoyment will afford an incalculable benefit, and it would be difficult to conceive of any project which would more surely elicit the gratitude of coming generations.

I am heartily in sympathy with the proposal and I am deeply gratified that there is a probability that private individuals will be found ready generously to aid the State in such an undertaking and to make possible the execution of a plan which would form a fitting crown for the enterprise in connection with the Palisades which has been so largely aided by private beneficence.

With respect to the plan in detail these suggestions occur to me at this time:

(1) The Palisades Park Commission was established by chapter 170 of the Laws of 1900, its jurisdiction, as you state, having been extended by chapter 691 of the Laws of 1906. The Commission consists of ten persons officially known as the "Commissioners of the Palisades Interstate Park." It was provided that five should be citizens and residents of the State of New York, and by chapter 504 of the Laws of 1901 it was expressly provided that five might be citizens or residents of the State of New Jersey. The Commission actually appointed consists of five citizens of New York and five citizens of New Jersey. I do not find that the five citizens of New York have any separate powers, or constitute by themselves a Commission, but the ten Commissioners by virtue of their New York appointment and the New York statute constitute a State Commission. Whether it would be well, in connection with the establishment of a highland park extending to the north in Orange county (as distinguished from the Palisades roadway and the work that has proper relation to an interstate park) to have the matter entrusted to a Commission consisting in part of residents of New Jersey, is a matter for further consideration, but not one involving any great difficulty, as an entirely satisfactory plan of administration could easily be provided. The Legislature might deem it preferable that so far as the highland reservation may be regarded as State, and not interstate, it should be in charge of citizens of this State.

(2) At the last session of the Legislature a forest reservation was created in the Highlands of the Hudson "within the mountains touching the Hudson river lying in the towns of Cornwall, Woodbury and Highland in the county of Orange, and Stony Point in Rockland county" with prescribed boundaries. It is provided that this reservation, which was to consist of such lands, rights and interests now owned or hereafter acquired by the State within the specified limits, is to be under the care of the Forest, Fish and Game Commissioner, and the Commissioner is authorized to take lands by purchase and also to receive by gift or bequest moneys to be used in acquiring or improving

lands. If the project is carried out in the manner now suggested, it would seem that a comprehensive plan should be provided for the whole section.

(3) Certainly if individuals are willing to contribute two and one-half million dollars, as I earnestly hope they will, for this important enterprise, the State should be willing to contribute as much more, and I should strenuously urge such an appropriation.

Much as I should like to see the matter expedited, I cannot, however, see my way clear to recommend such an appropriation out of the State's current income, for the demands are so great, particularly in connection with the necessities of the charitable work of the State along lines to which it is fairly committed, that I fear the moneys would not be available. If the amounts required were distributed over a period of years it might perhaps be accomplished if only a small amount relatively were required each year, as, for example, \$200,000, as suggested in your letter. But, if this were possible, I fear that the increase of values, and the absence of available moneys to take immediate advantage of opportunities that might be presented, would prove a drawback to the success of the enterprise and in the end entail a considerably larger outlay. We have also to consider that while we are endeavoring to protect the Highlands and to create there a recreation ground, the necessity of extending as rapidly as possible our acquisitions of forest land in the Adirondacks and in the Catskills is most exigent. Fortunately we are committed to the policy of protecting the forests and there is a growing sentiment in its support. This involves the acquisition by the State of a forest preserve commensurate with the needs of the conservation of this great natural resource. The longer we delay this acquisition the more it will cost the State. I am strongly of the opinion that, as we have decided upon the policy, we should execute it as rapidly as good judgment and proper economy in outlay will permit. The State with all the wealth of its resources should not be halted simply because its current income is insufficient for the purpose. These reserves are being bought not for a temporary purpose, but for the permanent benefit of the people, and it is fitting that those who come after us should bear the burden with us.

There is only one way it seems to me to provide for the necessary appropriations for this purpose, and that is through an issue of State bonds with proper sinking fund provisions. Such an issue should be provided for in an amount adequate to supply the means to secure the properties in the Highlands and in the northern forests which it is believed that the State should hold.

Such an issue under the Constitution must be authorized by the people at an election. I do not believe that it would be difficult to obtain such an authorization. Safeguards should be provided for such check with regard to the issue of bonds as would insure security against improvidence.

In this way provision should be made so that such amounts could be expended annually as the occasion justified and we would not be restricted to a particular amount because of the pressure upon our annual income.

(4) With regard to the new State prison, the site for which lies within the boundaries of the proposed park:

This site, as you know, has been selected pursuant to an act of the Legislature and plans are under way for the construction of the prison. I am not in a position to say what can be done with respect to this, for not only would legislative action be needed to effect a change, but the extreme difficulty of obtaining a suitable site for such an institution must be recognized. The extent of this difficulty can be appreciated only by those who have served upon various commissions endeavoring to obtain suitable sites, and who know how strenuous are the objections that are made in almost all cases. But I do think that the creation of such a park and the benevolence of private individuals in so largely aiding the State present the matter in a new phase, and the whole question of a prison site should be taken up in its new relation and we should endeavor to see what can be done. While, not knowing what other sites may be available, I can make no definite suggestion, I sincerely hope that this question will be taken up with a full appreciation of its importance as it is now presented. I may add that the time has arrived for the letting of contracts and it is of great importance that we should be in a position at as early a date as possible to reach a final decision. In view of the confidential character of

the suggestions that have been made as to private gifts, I have not felt free thus far to discuss with State officers the advisability of a reconsideration of the question of prison site, and I trust that there will be such a speedy development of the plans now in view that I may be free to do so in the very near future.

(5) In what I have said above as to the officers through which the State's authority should be exercised in creating and holding a distinctively State park, I omitted to mention the possible desirability of an interstate reservation in connection with the watershed, so important to the interests of New Jersey. It may be highly desirable that this should be protected under the charge of an interstate commission.

I trust I have made it clear that I am most anxious that a plan be carried out for the adequate protection of the shores of the Hudson and for a highland reservation, and that I welcome most gratefully the private beneficence of which you have given intimation. While I have no authority to act in the absence of legislation, I should be very glad to urge the passage of suitable measures to make such a project successful. It seems to me that the details can easily be arranged and that the people, through their representatives in the Legislature, and directly through a referendum, with regard to a proper bond issue, will gladly provide for the raising of the necessary amount.

Again expressing my gratification at the encouragement your Commission has received, and awaiting your further suggestions, I am,

Very truly yours,

(Signed)

CHARLES E. HUGHES.

Letter from George W. Perkins, President, etc., to Governor Hughes, dated November 24, 1909

OFFICE OF THE NEW YORK PALISADES PARK COMMISSION,
31 NASSAU STREET.

New York, November 24, 1909.

Hon. CHARLES E. HUGHES, *Governor, Albany, N. Y.*:

MY DEAR SIR.—Your letter of the 23rd, replying to the New York Palisades Commission's letter of the 22nd, is received and very greatly appreciated. Every member of the Commission will be greatly encouraged because of the prompt and cordial nature of your reply.

One of the chief difficulties in the way of carrying out the plan will probably be the question of removing the prison site; but as you are willing to take this up in connection with the whole project we feel very sure that some way of removing the obstacle can be found. If there is anything that the Commission can do to be of assistance in this matter please do not hesitate to command it.

Your suggestion of how to finance the proposition from the standpoint of the State is a most admirable one, and a bond issue for such a purpose, for the reasons stated in your letter and with your backing and support, would undoubtedly go through.

There seems to be but one matter left to work out and that is the one touched on by you, viz., of whether or not the jurisdiction of the Palisades Commission (it being an Interstate Commission) should be extended further up the river. The situation in this matter is just this: When the question of saving the Palisades was originally taken up it failed of accomplishment because of the difficulties in the way of the States doing anything jointly,—four-fifths of the Palisades proper being in the State of New Jersey and the remainder in the State of New York. The question of spending New York State's money to buy New Jersey land was a difficult one. The solution was found in the establishment of two Commissions,—a New York State Commission and a New Jersey Commission, and then

placing the same men on both Commissions. This has meant but one body of men to meet and do business together.

Just before the completion of the work of acquiring land along the Palisades, the Commission had, as its guests up the river to look over the work, the Governor of New Jersey and a number of the men associated with him in the affairs of that State. As a result of their consideration of the Commission's work we have secured their promise of cordial support in the undertaking we have in hand, and some of the money that we expect to raise for the project will come from the State of New Jersey and from individuals over there. You can readily see what a strong argument we were able to make to New Jersey in this matter, because the roadway that would lead to the up-State park would run through fourteen miles of New Jersey territory, — territory which is, as yet, to a large extent undeveloped and unpopulated, and, therefore, not producing the income for the State which it could be made to produce. This opening up of the territory would largely increase the population there and, therefore, make it attractive to the State to help finance it, and attractive to individuals over there, to help put the project through. We are, therefore, extremely anxious to keep the movement working through the joint Commission. Furthermore, the plan which, in the judgment of the Commission, it would require five million dollars to execute,— in order to raise the money from private individuals has been talked up on the basis of one completed and rounded-out plan, viz., the drive under the Palisades, the saving of Hook mountain, the moving of the prison site, and the establishment of a great park at the north end of the drive. We are not soliciting private contributions for any one of these purposes, but soliciting for the entire project; Mr. A.'s money and Mr. B.'s money to be used as in the judgment of the Commission seems best,— either for work on the roadway, stopping the blasting at Hook mountain, for acquiring land, or building roads in the park at the north end. You will see, therefore, that if there were two Commissions such a plan for raising and using money could not be worked out.

The hope of the Commission has been that its work of the last eight years would be done in such a manner as to inspire the

confidence of the community in its ability and integrity in the handling of individuals' money and the State's money, and thus enable it to move on to larger accomplishments. The completion of the work of the Commission on the Palisades proper is what makes it possible for the Commission to raise a very large sum of money by private subscription now, for the extension of the work.

When the Commission's jurisdiction was extended two years ago, beyond the Palisades, the same question was raised that is mentioned in your letter, viz., of New Jersey men being on a Commission that had the right to accept gifts and condemn land and manage a property that was clearly in New York State. The Commission's jurisdiction was extended, however, and might not this be counted on with the Legislature as a sufficient precedent to extend it again?

The Commission is prepared to obtain subscriptions immediately to the fund in question, and all its tentative work has been done on the theory that the Commission as now constituted could have its jurisdiction enlarged and go on with the project.

The Commission realizes that as the Legislature is not in session you cannot give a guarantee that the Legislature will agree with our views, but if you personally acquiesce in our views, we are ready to go on with the project and believe that we can have it ready to place in your hands, in definite shape, in a very short time.

I believe this is the only point left to be covered, and on hearing from you as to this we will immediately proceed to obtain our subscriptions, and hope, within a very few days, to place the matter in your hands, in such definite form that you can move in the prison matter as promptly as you desire.

Once more assuring you of our appreciation of your communication of the 23d we have the honor to remain,

Very respectfully yours,

THE NEW YORK PALISADES PARK COMMISSION,

(Signed) By GEO. W. PERKINS,

President.

**Letter from Governor Hughes to George W. Perkins,
President, etc., dated November 26, 1909**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, November 26, 1909.

HON. GEORGE W. PERKINS, *President, New York Palisades
Park Commission, 31 Nassau St., New York City:*

DEAR SIR.—I have received your letter of the 24th instant. It is clear that theoretical considerations with respect to the agency employed should not obstruct the prosecution of a great enterprise for the public benefit.

While five of the members of the New York Palisades Park Commission are citizens of the State of New Jersey, it is none the less a New York State commission whose members are appointed by State authority, and to that authority it is at all times amenable. Under the law its members are not entitled to compensation for their services, and your recent report shows that the entire amount disbursed from the funds of the Commission for their personal expenses during the nine years of its existence is only \$457.93. Its work has been an object lesson in State thrift and in efficient administration aided by private benevolence.

It is also true, as you point out, that the jurisdiction of the Commission was extended in 1906 so as to cover a large portion of Rockland county. And it should be remembered that probably in the near future measures will be taken, as suggested in my last letter, to secure the proper protection of the watershed in northern New Jersey and in the adjoining part of this State. I have several times discussed this matter with Governor Fort, and while I do not know his views upon this precise point, it may well be that the extension of the jurisdiction of your Commission to such an enterprise may be found advisable. This could easily form part of a comprehensive scheme for the care of the State's interests along the Palisades and in the highlands to the north.

Further, with respect to the proposed roadway, the protection of Hook mountain, and the creation of a highland park, you state in your letter that some of the money that the Commission

expects to raise will come from the State of New Jersey, and that you intend to secure subscriptions for the carrying out of a plan embracing all these matters, and not for one or more of them taken separately. I should not desire that any obstacle should stand in the way of your securing aid from citizens of New Jersey as well as from those of New York, and I am anxious that the question should be dealt with in such a way, consistently with the interests of this State, as to enlist the largest measure of support and to secure the early accomplishment of an end of such great public advantage.

For these reasons, while of course I am without authority to give you any further assurance in the premises, I personally acquiesce in the view that the jurisdiction of the New York Palisades Park Commission should be extended in a suitable manner, with proper safeguard of the title to lands acquired within this State, so as to embrace the additional tracts within the suggested plan, and I am willing to recommend to the Legislature that there should be appropriate legislation for this purpose.

Trusting that your expectations with regard to the proposed benefaction will be speedily realized, and that this enterprise promising so much benefit to the people of the State will be successfully completed, I remain,

Very truly yours,

(Signed) CHARLES E. HUGHES.

Letter from George W. Perkins, President, etc., to Governor Hughes, dated November 27,

OFFICE OF THE NEW YORK PALISADES PARK COMMISSION,
31 NASSAU STREET.

New York, November 27, 1909.

HON. CHARLES E. HUGHES, *Governor, Albany, N. Y.:*

MY DEAR SIR.—Your communication of November 26th is received and is most satisfactory to the Commission. We will one and all get very busy now in an attempt to put this entire

project in shape where you can use it to the best advantage at the forthcoming session of the Legislature. We hope to have something substantial to report on or before the 10th of December.

Very respectfully yours,

THE NEW YORK PALISADES PARK COMMISSION,

(Signed) By GEO. W. PERKINS,

President.

Letter from George W. Perkins, President, etc., to Governor Hughes, dated December 23, 1909

OFFICE OF THE NEW YORK PALISADES PARK COMMISSION,
31 NASSAU STREET.

New York, December 23, 1909.

Hon. CHARLES E. HUGHES, *Governor, Albany, N. Y.:*

DEAR SIR.—Referring to the recent correspondence between yourself and the New York Palisades Park Commission,—at a meeting of the Commission held this day I was authorized to submit to you the inclosed copy of a letter addressed to me as President of the Commission, in which a number of individuals make a proposition to the New York Palisades Commission for the extension of the Palisades park to the northward into Orange and Rockland counties, and the development thereof.

I have the honor to inform you that the Commission has signatures and assurances of signatures to this letter to the aggregate sum of \$1,500,000. These, together with the offer made to the State by way of Mrs. Harriman's letter, transmitted to you this day, of \$1,000,000, make a total of \$2,500,000 that will be contributed to the undertaking by private individuals, provided the State deems it wise to adopt the suggestions to the Palisades Commission, made by the individuals in question, as set forth in the inclosure.

Awaiting any further advices or suggestions from you in the matter, I have the honor to remain,

Very respectfully yours,

(Signed) GEO. W. PERKINS,

President, The New York Palisades Park Commission.

Copy of Communication Enclosed with the Foregoing Letter

New York, December , 1909.

MR. GEORGE W. PERKINS, *President, New York Palisades Park Commission, New York City:*

DEAR SIR.—We understand that the Palisades Park Commission has acquired for a park all the water frontage and land extending to the top of the Palisades from Fort Lee to Piermont; that its plans include the constructing of a roadway along the base of the cliffs through this park and the extension of the park and roadway along the west shore of the Hudson to Stony Point and thence northward into Rockland and Orange counties where it is hoped a large park can be established.

We understand that Mrs. E. H. Harriman has very generously offered to present to the State of New York, to be under the jurisdiction of the Palisades Park Commission, upwards of ten thousand (10,000) acres of land in Orange county for the purpose of a State Park, and that she has further offered to contribute one million dollars (\$1,000,000) to acquire additional lands and build roads to develop such a park and connect it with the park included in the plans of the Palisades Park Commission.

For the carrying out of the above large and comprehensive plans we understand the Palisades Park Commission proposes at once to secure a total fund of not less than five millions of dollars (\$5,000,000) to be used as follows:

1. To secure for park purposes the property along the river from Nyack to Haverstraw, from the water back as far as may be necessary to permanently prevent the defacement of the river face of the property;

2. To build a roadway along the base of the Palisades from Fort Lee to Piermont through the property already secured by the Palisades Park Commission;

3. In some way to connect the park which now extends to Piermont with the proposed park provided for in section 1 and in turn to connect this with the State Reservation at Stony Point;

4. To connect at Stony Point with a park or highway northward through Rockland and Orange counties to the park offered by Mrs. Harriman; and to develop and enlarge the park, offered by Mrs. Harriman.

Towards this fund we, the undersigned, agree to contribute the sums set opposite our names upon the following conditions:

1. That in order that the Palisades Park Commission may be able to carry out these plans and to receive and hold the land and money offered the State by Mrs. Harriman, the Legislature extend the jurisdiction of the Palisades Commission to the northward along the west bank of the Hudson river to Newburgh, and to the westward as far as and to include the Ramapo mountains, giving the Commission the same powers granted to it at the time it was created and at the time its jurisdiction was extended in 1906, including the right to condemn land for roadway and park purposes;

2. That the State of New York appropriate \$2,500,000 to the use of the Commission for the acquiring of land and the building of roads and general park purposes;

3. That the State discontinue the work on the new State prison located in Rockland county and relocate the prison where in the judgment of the Palisades Park Commission it will not interfere with the plans and purposes of the Commission.

4. That in addition to the aforesaid appropriation from the State a further sum of \$2,500,000, including Mrs. Harriman's pledge of a million dollars, be secured on or before January 1, 1910.

5. That in addition to the above \$5,000,000 the State of New Jersey appropriate such an amount as the Palisades Park Commission shall deem to be its fair share.

All payments under this pledge shall be made pro rata as called for by the Commission.

Letter from George W. Perkins, President, etc., to Governor Hughes, dated December 30, 1909

OFFICE OF THE NEW YORK PALISADES PARK COMMISSION,
31 NASSAU STREET.

New York, December 30, 1909.

Hon. CHARLES E. HUGHES, *Governor, Albany, New York:*

DEAR SIR.—Referring to Mrs. Harriman's gift of approximately 10,000 acres of land and \$1,000,000 in money for the establishment of a State park, I now have the honor to inform you that the fund which the Palisades Park Commission has endeavored to raise for the purpose of supplementing Mrs. Harriman's gift, in the manner indicated in the Commission's last communication to you, has been complete so far as New York State is concerned and partially as to New Jersey, and the subscribers are as follows:

John D. Rockefeller	\$500,000
J. Pierpont Morgan	500,000
Margaret Olivia Sage	50,000
Helen Miller Gould	25,000
Ellen F. James and Arthur Curtiss James.....	25,000
Wm. K. Vanderbilt	50,000
George F. Baker	50,000
James Stillman	50,000
John D. Archbold	50,000
Wm. Rockefeller	50,000
Frank A. Munsey	50,000
Henry Phipps	50,000
E. T. Stotesbury	50,000
E. H. Gary	50,000
V. Everit Macy	25,000
Geo. W. Perkins	50,000

representing contributions from residents of New York, New Jersey and Philadelphia.

Very respectfully yours,

(Signed) GEO. W. PERKINS,
President, Palisades Park Commission.

**Letter from Governor Hughes to George W. Perkins,
President, etc., dated December 31, 1909**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, December 31, 1909.

HON. GEORGE W. PERKINS, *President, New York Palisades
Park Commission, 31 Nassau St., New York City:*

DEAR SIR.—Your letter of the 23d instant referring to our recent correspondence with respect to the plans of the New York Palisades Park Commission and inclosing copy of a letter addressed to you as its president, setting forth the conditions of certain private subscriptions to aid in the furtherance of these plans, and also your letter of the 30th instant giving the names of the contributors and the amount of their proposed gifts aggregating \$1,625,000, has been received. The copies of the map which you have had prepared, showing the contemplated extensions of the Palisades park and the proposed Highland park, have been delivered.

I desire to express my appreciation of this result of your efforts and of the notable generosity of the subscribers in aiding so largely the consummation of a project of first importance to the people. This action on their part will elicit a most grateful response, and the gratification at this provision for the public benefit cannot fail to increase as our population grows and the advantages of such a recreation ground near the city of New York become more and more apparent. I shall make announcement of these gifts in my message to the Legislature, submitting therewith the correspondence, and I shall be glad to recommend that suitable legislation be enacted to meet the conditions imposed by the subscribers and to carry out the plans which they and the Palisades Park Commission have in view.

I have the honor to remain,

Very sincerely yours,

(Signed)

CHARLES E. HUGHES.

SPECIAL MESSAGE,**Submitting to the Legislature Certified Copy of a Resolution of Congress, Entitled "Joint Resolution Proposing an Amendment to the Constitution of the United States."**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, January 5, 1910.

To the Legislature:

I have received from the Secretary of State of the United States a certified copy of a resolution of Congress entitled "Joint Resolution Proposing an Amendment to the Constitution of the United States," and in accordance with his request I submit it to your honorable body for such action as may be had thereon.

The amendment proposed by this joint resolution, adopted by two-thirds of both houses of Congress, is as follows:

"Article XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

The power to lay a tax upon incomes, without apportionment, was long supposed to be possessed by the Federal government and has been repeatedly exercised. Such taxes were laid and paid for the purpose of meeting the exigencies caused by the Civil War.

In 1895, in the case of *Pollock v. Farmers' Loan and Trust Company* (158 U. S. 601), the United States Supreme Court decided that taxes on the rents or income of real estate, and taxes on personal property or on the income of personal property, are direct taxes and hence under the Constitution cannot be imposed without apportionment among the several States according to their respective populations.

It was not the function of the court, and it did not attempt, to decide whether or not a Federal income tax was desirable. It

simply interpreted the Constitution according to the judgment of the majority of its members and left the question of the advisability of conferring such a power upon the Federal government to be determined in the constitutional method.

The limitations so placed upon the Federal taxing power are thus described by Mr. Justice Harlan in his dissenting opinion:

“Any attempt upon the part of Congress to apportion among the States, upon the basis simply of their population, taxation of personal property or of incomes, would tend to arouse such indignation among the freemen of America that it would never be repeated. When, therefore, this court adjudges, as it does now adjudge, that Congress cannot impose a duty or tax upon personal property, or upon income arising either from rents of real estate or from personal property, including invested personal property, bonds, stocks, and investments of all kinds, except by apportioning the sum to be so raised among the States according to population, it practically decides that, without an amendment of the Constitution — two-thirds of both Houses of Congress and three-fourths of the States concurring — such property and incomes can never be made to contribute to the support of the national government. (Id., pp. 671, 2.) * * *

“Incomes arising from trades, employments, callings, and professions can be taxed, under the rule of uniformity or equality, by both the national government and the respective State governments, while incomes from property, bonds, stocks, and investments cannot, under the present decision, be taxed by the national government except under the impracticable rule of apportionment among the States according to population. No sound reason for such a discrimination has been or can be suggested.” (Id., p. 680.)

I am in favor of conferring upon the Federal government the power to lay and collect an income tax without apportionment among the States according to population. I believe that this power should be held by the Federal government so as properly to equip it with the means of meeting national exigencies.

But the power to tax incomes should not be granted in such terms as to subject to Federal taxation the incomes derived from bonds issued by the State itself, or those issued by municipal governments organized under the State's authority. To place the borrowing capacity of the State and of its governmental agencies at the mercy of the Federal taxing power would be an impairment of the essential rights of the State which, as its officers, we are bound to defend.

You are called upon to deal with a specific proposal to amend the Constitution, and your action must necessarily be determined not by a general consideration of the propriety of a just Federal income tax, or of giving to the Federal government the power to lay such a tax, but whether or not the particular proposal is of such a character as to warrant your assent.

This proposal is that the Federal government shall have the power to lay and collect taxes on incomes "*from whatever source derived.*"

It is to be borne in mind that this is not a mere statute to be construed in the light of constitutional restrictions, express or implied, but a proposed amendment to the Constitution itself which, if ratified, will be in effect a grant to the Federal government of the power which it defines.

The comprehensive words, "*from whatever source derived,*" if taken in their natural sense, would include not only incomes from ordinary real or personal property, but also incomes derived from State and municipal securities.

It may be urged that the amendment would be limited by construction. But there can be no satisfactory assurance of this. The words in terms are all-inclusive. An amendment to the Constitution of the United States is the most important of political acts, and there should be no amendment expressed in such terms as to afford the opportunity for Federal action in violation of the fundamental conditions of State authority.

I am not now referring to the advantage which the States might derive from the exclusive power to tax incomes from property, or to the argument that for this reason the power to tax such incomes should be withheld from the Federal government. To that argument I do not assent.

I am referring to a proposal to authorize a tax which might be laid in fact upon the instrumentalities of State government. In order that a market may be provided for State bonds, and for municipal bonds, and that thus means may be afforded for State and local administration, such securities from time to time are excepted from taxation. In this way lower rates of interest are paid than otherwise would be possible. To permit such securities to be the subject of Federal taxation is to place such limitations upon the borrowing power of the State as to make the performance of the functions of local government a matter of Federal grace.

This has been repeatedly recognized. In the case of *The Collector v. Day* (11 Wall. on p. 127), decided in 1870, the United States Supreme Court said:

“It is admitted that there is no express provision in the Constitution that prohibits the general government from taxing the means and instrumentalities of the States, nor is there any prohibiting the States from taxing the means and instrumentalities of that government. In both cases the exemption rests upon necessary implication, and is upheld by the great law of self-preservation; as any government, whose means employed in conducting its operations, if subject to the control of another and distinct government, can exist only at the mercy of that government. Of what avail are these means if another power may tax them at discretion?”

In the case of *Pollock v. Farmers' Loan & Trust Co.* (157 U. S. on pp. 584-5), Chief Justice Fuller said, referring to the tax upon incomes from municipal bonds, one of the matters there involved:

“A municipal corporation is the representative of the State and one of the instrumentalities of the State government. It was long ago determined that the property and revenues of municipal corporations are not subjects of Federal taxation. * * * But we think the same want of power to tax the property or revenues of the States or their instrumentalities exists in relation to a tax on the income from their securities.”

In the same case Mr. Justice Field said (Id. on p. 601) :

“ These bonds and securities are as important to the performance of the duties of the State as like bonds and securities of the United States are important to the performance of their duties, and are as exempt from the taxation of the United States as the former are exempt from the taxation of the States.”

And the learned Justice added, quoting from *United States v. Railroad Co.* (17 Wall. on pp. 322, 327) as follows :

“ The right of the States to administer their own affairs through their legislative, executive, and judicial departments, in their own manner through their own agencies, is conceded by the uniform decisions of this court, and by the practice of the Federal government from its organization. This carries with it an exemption of those agencies and instruments from the taxing power of the Federal government. If they may be taxed lightly, they may be taxed heavily; if justly, oppressively. Their operation may be impeded and may be destroyed, if any interference is permitted. Hence, the beginning of such taxation is not allowed on the one side, is not claimed on the other.”

While the justices of the court in the *Pollock* case differed in opinion upon the question whether a tax upon income from property was a direct tax and as such could not be laid without apportionment, they were unanimous in their conclusion that no Federal tax could be laid upon the income from municipal bonds. Mr. Justice White, who dissented in the *Pollock* case with regard to other questions, as to this said (157 U. S. on p. 652) :

“ The authorities cited in the opinion are decisive of this question. They are relevant to one case and not to the other, because, in the one case, there is full power in the Federal government to tax, the only controversy being whether the tax imposed is direct or indirect; while in the other there is no power whatever in the Federal government, and, therefore, the levy, whether direct or indirect, is beyond the taxing power.”

It is certainly significant that the words, "*from whatever source derived*," have been introduced into the proposed amendment as if it were the intention to make it impossible for the claim to be urged that the income from any property, even though it consist of the bonds of the State or of a municipality organized by it, will be removed from the reach of the taxing power of the Federal government.

The immunity from Federal taxation that the State and its instrumentalities of government now enjoy is derived not from any express provision of the Federal Constitution, but from what has been deemed to be necessary implication. Who can say that any such implication with respect to the proposed tax will survive the adoption of this explicit and comprehensive amendment?

We cannot suppose that Congress will not seek to tax incomes derived from securities issued by the State and its municipalities. It has repeatedly endeavored to lay such taxes and its efforts have been defeated only by implied constitutional restriction which this amendment threatens to destroy. While we may desire that the Federal government may be equipped with all necessary national powers in order that it may perform its national function, we must be equally solicitous to secure the essential bases of State government.

I therefore deem it my duty, as Governor of the State, to recommend that this proposed amendment should not be ratified.

(Signed)

CHARLES E. HUGHES.

No. 1111

UNITED STATES OF AMERICA

Department of State

To all to whom these presents shall come, Greeting:

I certify that the copy hereto attached is a true copy of a resolution of Congress, entitled "Joint Resolution Proposing an Amendment to the Constitution of the United States," the original of which is on file in this Department.

IN TESTIMONY WHEREOF, I, P. C. KNOX, Secretary of State, have hereunto caused the Seal of the Department of State to be affixed, and my name to be subscribed by the Chief of the Bureau of Citizenship of the said Department, at the City of Washington, this 27th day of July, 1909.

P. C. KNOX,

Secretary of State.

by R. W. FLOURNOY, JR.,

Chief, Bureau of Citizenship.

Sixty-first Congress of the United States of America

AT THE FIRST SESSION.

Begun and held at the City of Washington on Monday, the fifteenth day of March, one thousand nine hundred and nine.

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States.

RESOLVED, by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the

United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

“Article XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.”

J. G. CANNON,
Speaker of the House of Representatives.

J. S. SHERMAN,
*Vice-President of the United States and
President of the Senate.*

Attest:

A. McDOWELL,
Clerk of the House of Representatives.

CHARLES G. BENNETT,
Secretary.

by HENRY H. GILFRY,
Chief Clerk.

I certify that this joint resolution originated in the Senate.

CHARLES G. BENNETT,
Secretary.
by HENRY H. GILFRY,
Chief Clerk.

Relating to the Gift of Land at Crown Point Comprising the Ruins of Fort St. Frederic and Fort Amherst

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 4, 1910.

To the Legislature:

It is my privilege to communicate to your honorable body another offer to make an important gift to the State of New York.

Witherbee, Sherman & Company (Incorporated) of Port Henry, propose to convey to the State the tract of land at

Crown Point, about twenty-five acres in extent, which comprises the ruins of the fortifications known as Fort St. Frederic and Fort Amherst. This offer is made in the following letter:

Directors

F. S. Witherbee, President
E. A. S. Clarke, Vice-President
Wallace T. Foote, Jr.

Directors

W. C. Witherbee, Treasurer
L. W. Francis, Secretary
Moses Taylor

H. B. Willard, Cashier
H. E. Kidder, Asst. Cashier
R. J. Bigley, Shipping Supt.

Port Henry Office. Established 1849.

WITHERBEE, SHERMAN & COMPANY
(*Incorporated*)

IRON ORE, PIG IRON, PHOSPHATES

Port Henry, N. Y., March 25, 1910.

Hon. CHARLES E. HUGHES, *Governor, Albany, New York*:

"DEAR SIR.—Among the most interesting historical ruins of the country are those at Crown Point, opposite the village of Port Henry on Lake Champlain.

"Witherbee, Sherman & Company, Incorporated, who have conducted their business of iron mining in the vicinity for over sixty years, have secured possession of these ruins and desire to present them, through you, to the State of New York for the purpose of creating a State park to preserve them for all time. The tract, comprising about twenty-five acres, is located in a commanding position at the end of a long peninsula and contains the well preserved ruins of two important fortifications known as Fort St. Frederic and Fort Amherst.

"Though small in area, the proposed park is as rich and pre-eminent in historical interest as any locality in this country. Along the shores constant strifes, as far back as legendary history goes, have occurred between hostile Indian tribes for possession of that part of our country and within its borders very likely was fought the far-reaching battle of Samuel de Champlain with the Iroquois.

"The French are supposed to have occupied a point of land within its borders and to have erected a stockhouse there, as early as 1690. They constructed in 1731 an important fortification at this point, which they named Fort St. Frederic after Frederic de Maurepas, French Secretary of State. The English, disputing their claim to this territory, determined that for the protection of their settlements in New England and New York, they must control it, and Crown Point was therefore the theatre of many stirring events during the French and Indian wars, which finally resulted in the retreat of the French from the valley of Lake Champlain and practically from the continent of America.

"Of Fort St. Frederic little remains today, except the earthworks and the crumbled walls of the old fort. On the occupation of the English, the very extensive Crown Point or Amherst fortifications were started in 1759 and completed sometime thereafter, and the barracks and earthworks still standing in excellent condition are a lasting monument of the thorough work of construction.

"It is estimated by some historians that as high as £2,000,000 sterling were expended by the French and English governments in the construction of these two fortifications.

"Around these fortifications and partly within the limits of this little park, can be seen the evidences of paved streets and many houses, and there existed here during the Colonial and Revolutionary periods a village perhaps the most important and largest between Albany and Montreal. A legend, partly confirmed by historical documents, is current that the English tried to win over the 'Green Mountain Boys' during the Revolutionary War, by promising them a separate province under practically the same form of government as that of Canada, the southern boundary of which would have passed through Skeensborough (now Whitehall) and the capital of which would have been this village of Crown Point.

"Our corporation have felt that these ruins, which are perhaps the most extensive and best preserved of any in this country — with the possible exception of the fortress of San Marco in St. Augustine, Florida — should pass into the hands of the

State of New York and we tender this gift for the purpose of creating a State park, which shall be open forever to the public, and it is our expectation that — if accepted — the State will make suitable provision to protect the ruins from spoliation to the end that they may be preserved in their present condition, so far as may be, for all time.

“ Very respectfully yours,

“ WITHERBEE, SHERMAN & COMPANY,

“ Incorporated.

“ By F. S. WITHERBEE,

“ *President.*”

It is most desirable that these ruins, of such extraordinary interest, should belong to the people of the State and should be properly cared for in their interest. We have recently celebrated the three-hundredth anniversary of the discovery of Lake Champlain, and we have fittingly commemorated the course of events which through savage strife and the rivalries of foreign powers led ultimately to the establishment of the Nation. This celebration has quickened the desire to preserve the priceless memorials of these fateful struggles; and we should most heartily congratulate ourselves that private generosity has provided this opportunity, and that patriotic sentiment has inspired this noteworthy act of beneficence on the part of the business men who are associated in the donor corporation. They deserve and will receive the sincere thanks of the people, and I take pleasure in recommending that your honorable body take appropriate action for the acceptance of the gift and for the preservation of the property in accordance with its provisions.

I submit to you herewith copies of the conveyances which have been placed in my hands, awaiting your action.

(Signed)

CHARLES E. HUGHES.

Recommending Investigation into Legislative Practices and Procedure and into the Use of Corrupt or Improper Means for the Promotion or Defeat of Legislation; and Submitting a Report Made by the Superintendent of Insurance.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 11, 1910.

To the Legislature:

I place before you a report which has been made to me by the Superintendent of Insurance. While the Superintendent is armed with power to examine witnesses and to compel the production of books and papers in proceedings within the scope of his departmental action, he has come upon certain suggestive facts apparently lying outside his official cognizance and of a character to be adequately dealt with only through means which your honorable body is competent to authorize.

The revelations in the inquiry recently conducted by the Senate and the facts brought to light by the Superintendent of Insurance make it imperative that there should be a thorough investigation with respect to legislative processes and as to the corrupt practices which have been effectual in advancing or blocking legislation. It is not necessary for me to review these disclosures or to attempt to appraise their cumulative effect. It is sufficient to say that they have caused every honest citizen to tingle with shame and indignation and have made irresistible the demand that every proper means should be employed to purge and to purify.

It is the high privilege of the Legislature, in the discharge of its obligations to itself and to the people of the State, to follow the salutary action already taken in its upper branch by appropriate steps for the exposure and destruction of combinations and conspiracies against the just use of the law-making power and by providing suitable protection against the recurrence of such abuses. This is a promising opportunity to pursue the opening trails of corruption, to reveal illicit methods and agencies, to uncover the perfidious influences which have dishonored the State and thus to aid in securing the wholesome exercise of its beneficent authority.

It is the unquestioned prerogative of the Legislature to inquire into the course of legislation, the integrity of legislative procedure and the means by which its action has been procured or frustrated. In this there is no usurpation or confusion of function, but the proper safeguarding of the legislative power. The Legislature is entitled to know how, wherein and by whom it has been deceived and its powers perverted.

Important as will be the wholesome and corrective influence of publicity with respect to these matters, the purpose and result of inquiry extend beyond the bounds of mere disclosure. We are far from perfection in legislative method. Nor have we exhausted available measures of protection against traffic in legislation and chicanery in dealing with bills. No subject deserves more thorough consideration to the end that the opportunities of those who are willing to buy legislative favor or to use representative powers for personal profit should be limited to the utmost degree. It may be impossible wholly to eradicate these evils, but to the extent that the nature of the illicit intercourse is understood, and the methods and instrumentalities which have been successful are exposed, there may be intelligent effort at remedial action through both statutes and legislative rules. The time is ripe, in my judgment, for a full and painstaking inquiry to expose the worst of public wrongs and to prepare the way for needed improvements in our laws and legislative processes.

I therefore recommend an immediate, impartial, thorough and unsparing investigation into legislative practices and procedure and into the use of corrupt or improper means for the promotion or defeat of legislation, such inquiry not to be limited to but suitable to embrace the matters adduced in the recent proceeding by the Senate and those presented by the report herewith submitted of the Superintendent of Insurance, in order that, so far as evidence may be obtainable, the actual facts may be known, that there may be a full understanding of the methods and agencies employed in connection with legislative proposals and that well-considered recommendations for appropriate remedies may be made.

(Signed) CHARLES E. HUGHES.

STATE OF NEW YORK — INSURANCE DEPARTMENT.

Albany, April 8, 1910.

To the Hon. CHARLES E. HUGHES, *Governor, Albany, N. Y.*:

SIR.—On March 18, 1910, a public investigation of the expenses of insurance companies, from 1900 to 1910, inclusive, particularly in connection with legislation, was begun at the New York offices of this department. The testimony and exhibits therein, together with a formal report, will later be transmitted to you. The character of the facts developed and the nature of the difficulties encountered in conducting the investigation further seem to make it proper that I at this time lay before you the following summary:

An examination of the Phoenix Insurance Company of Brooklyn, begun last October, brought to light a mass of correspondence seeming to disclose an intimate relation between the president of that company and legislation affecting fire insurance companies during the last decade. The material thus revealed suggested an examination of the books and records of several other companies and, in January of this year, such examination was ordered. This examination showed that very considerable sums of money had been paid by a large number of domestic fire insurance companies, and disbursed by or through the president of the Phoenix Company in promoting or retarding legislation.

The facts thus developed formed a basis for further enquiry, with the result that, on March 18th, a public investigation, under the authority conferred by section 39 of the Insurance Law, was commenced. Inasmuch as the expenses of life insurance companies in connection with legislation had been quite generally developed by the legislative investigation of 1905, it was not thought either expedient or necessary to devote much time to an enquiry into the disbursements of companies of this character. Indeed, with possibly a few exceptions, only such facts as showed disbursements by life companies which were not brought out in 1905 form a part of the record of this investigation.

The result of the investigation thus far warrants the following statements:

I. Legislative expenditures in New York by insurance companies authorized to do business in this State were particularly conspicuous in the years 1901, 1903, 1904, 1905, 1906 and 1909, and notably significant in two or three of such years.

II. These disbursements were made (a) by individual companies, in connection with legislation affecting such companies, (b) by syndicates of companies apparently willing to do the work for all, and (c) by the New York Board of Fire Underwriters, a corporation supported by annual assessments on practically all of the companies doing business in New York, such assessments being based on premium income, and whose committee on laws and legislation is, by its by-laws, charged with the responsibility of watching over legislative affairs.

III. The moneys so paid were disbursed for (a) traveling expenses of individuals and delegations, (b) annual and special retainers of regular counsel, (c) so-called retainers of legislative lawyers, (d) contributions to political committees, (e) gifts or payments to men of political prominence and influence, and (f) entertaining legislators and others, at times in a somewhat lavish manner. The aggregate of disbursements of this character, as the record now stands — such disbursements being largely from the treasuries of fire insurance companies — approximates and probably exceeds \$150,000.

IV. The disbursements for traveling expenses and to counsel for services in the preparation of briefs and the presentation of arguments to legislative committees are, doubtless, legitimate. It has not, however, yet been possible to examine into certain large disbursements of this kind made, from 1901 to 1906, inclusive, to regular counsel resident in New York City. The size, frequency and limited distribution of payments to so-called lawyers and legislative agents resident in Albany are suspicious, and seem to call for further enquiry through an investigation of broader range than is possible under section 39 of the Insurance Law. Particularly is this true of a fund of \$10,000, raised by four companies in 1903; a fund of \$15,000, raised and disbursed in 1904; and funds of \$5,000 each, disbursed in 1905 and 1909, respectively. A disbursement of \$8,311.98 by the New York Board of Fire Underwriters in 1901, and an auxiliary fund of \$5,000, raised by certain of the companies

contributory to that board, in the same year, have been largely accounted for. The facts developed as to these various funds prove that some of the moneys went to the Republican State Committee, in recognition of the interest of certain members of such committee at the time various bills were passed; some to prominent politicians; some to past members of the Legislature, supposedly of influence; and a large portion to a legislative agent, formerly connected with the Insurance Department of the State of New York, whose disbursements of such funds are sufficiently characterized in his own correspondence, but whose memory seems lapsed, whose books are apparently non-existent, and an inspection of whose bank account has been denied. Numerous items of proof, however, warrant the inference that some of the moneys thus disbursed went further than the persons to whom they were paid by the representative of the insurance interests.

V. Several witnesses offered proof of direct propositions made by so-called lobbyists looking to the payment of money to such persons, that it might be by them distributed amongst members of past Legislatures.

VI. Instances of the attempted collection of funds for the purpose of contributing to the campaigns of legislative candidates were also developed.

VII. Much was also elicited as to so-called "strike" bills, and the log-rolling of such bills in and out of committees, responsive to the influence of lobbyists and legislative agents, often, apparently, that they might either prove their usefulness or exact larger contributions from their dupes.

VIII. Similarly, numerous instances evidencing the holding up of meritorious bills and the threatened passage of bad bills, until the desired consideration reached the bank accounts of the middle men, were also developed.

In short, while absolute proof showing the transit of money from the bank account of an insurance company into the hands or the bank account of a legislator is lacking, the record of the investigation as thus far made up warrants the statement that, during the past decade, particularly in the first five years of such decade, a system of bill-killing and law-getting has

existed which is a reproach to the people of the State. That such system existed prior to 1900 is also apparent from the facts developed on the investigation.

During the progress of the investigation, the chief witness frequently refused to answer questions; thereby making himself liable for contempt under section 61 of the Public Officers Law. He also served a notice upon his principal bank of deposit, the result of which was that such bank declined to produce a transcript of his account, which it had been subpoenaed to produce. It was not thought essential to the development of the facts that the investigation proper be halted to compel the answering of questions and the production of books. Nor is it doubted that, under existing law, such testimony and production can be compelled.

A difficulty, apparently insuperable, has, however, developed. The books of the Phoenix Insurance Company showed that, while the chief witness in this investigation was a member of the Insurance Department of this State, such company had loaned him \$13,000, on the collateral of 100 shares of the International Banking & Trust Company. The latter company was the successor in interest of the American Bond and Mortgage Guarantee Company, to which a special charter, giving extraordinary powers — some of them of an insurance nature — had been voted by the Legislature of 1900. Enquiry into this transaction suggested the importance of a careful investigation of the books of certain financial institutions now out of business, to the end that the circumstances surrounding the acquisition of portions of such stock by this witness and others might be spread upon the record. Again, a notice was served which, in effect, prevented an examination of such books; and further progress along this line was thus, for the time, blocked. The testimony of a voluntary witness, however, threw a strong light upon the methods followed by those who sought special charters, with wide corporate powers, from the Legislatures of several years ago.

Likewise, further enquiry into certain facts — developed as the result of a suggestion made by the counsel of former Senator Conger — seems to be not only effectively blocked, but, also,

probably improper. Ellingwood & Cunningham were, from 1900 to about March, 1905, a stock brokerage house, operating in New York. A petition in bankruptcy was filed against them, and a settlement made with their creditors. Their books, papers and records, however, remained in the possession of James W. Cunningham, one of the members of the firm. For about five years prior to the failure of this firm, one G. Tracy Rogers — who at that time seems to have been the legislative representative at Albany of the traction interests — was a special partner in the firm.

A subpoena served upon Mr. Cunningham resulted in his placing in the possession of the Superintendent of Insurance three large loose-leaf ledgers, covering the transactions of his firm from 1900 to March, 1905, inclusive. He also gave information as to the existence and character of the other books, papers and records of such firm, and promised to make the same available. An examination of such ledgers developed the existence therein of accounts with several former members of the Legislature, some of whom had been active on the insurance and rules committees. Mr. Cunningham was, therefore, asked to take the stand and give evidence tending to develop whether any of the transactions with such members had to do with moneys disbursed by insurance companies. His examination at once made it very doubtful whether further inquiry could properly be made under section 39 of the Insurance Law.

The accounts referred to, however, together with the testimony of the witness Cunningham — both read in connection with the accounts on such books of G. Tracy Rogers and others associated with him — warrant a strong suspicion that such books, to an extent at least, had been a clearing house for financial transactions connected with legislation during the period mentioned.

Thus far, thirteen accounts have been examined, nine of which appear to have been with those who were members of the Legislature at that time, and four with persons prominently associated with legislative affairs or in the same coterie of political influence. Several other accounts, particularly those of G. Tracy Rogers and of syndicates or partnerships of which he was a member, have also been found in such books.

Among the significant facts disclosed in the thirteen accounts just mentioned are the following:

1. Several of the accounts either have their origin or become active near the close of the legislative sessions of 1900 or 1901.

2. Some of such accounts show credits of cash in considerable amount, at about the time the Legislatures of those years adjourned.

3. In some instances, these credits show that they resulted from a cash or a check payment by G. Tracy Rogers, or through a transfer from his account.

4. In two or three of the accounts, credits of cash, sometimes from or through the account of G. Tracy Rogers, were offset almost immediately by cash withdrawals.

5. Some of the accounts show purchases and short sales, evidencing the possession by the person interested of inside information as to prospective operations through manipulations in Wall Street.

6. In one account, numerous unexplained entries were made, showing withdrawals by one of the persons mentioned, at a time when he was a heavy debtor of the firm.

7. In a considerable number of accounts appear transactions in stock indicated by the word "Trans", which seems to mean the stock of either the New York Transportation Company or the New York Electric Vehicle Transportation Company; two corporations at that time closely allied and ultimately merged under the name of the former. By chapter 657 of the Laws of 1900, it became possible for the first mentioned company greatly to extend its franchise in the City of New York. Coincident with the passage of this bill, several of the persons whose names appear in these books seem to have acquired blocks of this stock. The books do not furnish complete information as to such acquisition, but the significance of some of the dates — they being almost coincident with the final action taken by the Legislature on the bill which ultimately became chapter 657 — is notable. Equally notable is the fact that, when several of these blocks were sold by this brokerage house, in 1901, the price realized seems to have been more than double the market price of such stocks at that time.

There are also minor peculiarities about these accounts which suggest investigation, as, for instance: (a) In several accounts, the absence of cash or margin credits at times of purchases; (b) in one of the accounts, the rebating of a considerable sum of interest; and (c) the apparent fact that some of the accounts show large debit balances at the time of the failure of the brokerage house, but seem not to have since been pressed for payment.

Certain of the accounts in these ledgers show a close connection between G. Tracy Rogers and the Metropolitan traction interests in New York City. The character of the securities dealt in frequently recalls legislation urged or retarded at about the same time.

In short, these books — together with the memoranda, check stub books, checks and correspondence of this firm — seem to call for further investigation and enquiry. When an effort was made so to do, objection thereto was raised by an attorney, who had not previously been the counsel of the witness and who declined to be sworn when an attempt was made to ascertain his connection, if any, with interests represented by G. Tracy Rogers.

It is not apparent that the Superintendent of Insurance, as such, has power, under section 39, to proceed further with this phase of the pending investigation. For that reason, the facts thus far developed and the books and papers now in my possession are thus laid before you.

Respectfully submitted,

(Signed)

WILLIAM H. HOTCHKISS,

Superintendent of Insurance.

Urging the Passage of a Suitable Measure for the Correction of Primary Election Abuses

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 26, 1910.

To the Legislature:

I am informed by the Temporary President of the Senate that Assembly bill No. 2552, entitled "An act to amend the Election Law, in relation to the enrollment of party voters, nominations, primaries, conventions and party committees, and repealing certain sections relating thereto," was yesterday passed in the Senate, and having previously been passed in the Assembly, will come before me for action. The bill, however, has not yet reached the Executive Chamber and it may not come into my hands before your adjournment.

I have examined the provisions of this bill and I deem it important that before the adjournment of your honorable body you should be advised of my views with respect thereto and of the fact that for the reasons stated below the bill will not receive my approval.

The bill to which I have referred is not a grant but a denial of needed primary reform.

It provides for State-wide enrollment; but it gives to the enrolled voter, who does not make politics his vocation, scant opportunity for effective participation in the decisions of his party.

It provides for an official primary ballot; but its provision is of a sort to facilitate domination by party managers and thus to protect the plans and purposes of those who seek, through the control of the nomination of party candidates, to make the administration of government serve the interests of themselves and their allies.

This measure is in the interest of a system which experience condemns and fails to give promise of relief from methods which have caused widespread and constantly increasing protest. Its good provisions are offset by those that are bad. Instead of putting party managers under suitable check and giving to the party voters the decisive voice, it places the party voters in the virtual control of the party managers.

The test is found in the situation of the enrolled voters on primary day. Under this bill what can the enrolled voter do with the elaborate machinery that is provided for the primary? Can he express his choice as to a single candidate of his party for public office? Not one. Can he say whom he desires to be the party candidate for a State office, or for election to Congress, to the State Senate or Assembly, or even to any of the offices within his own county? Not at all. He is invited to participate in the selection of a host of delegates about whom, in ordinary case, he will know nothing, and of whose choice of candidates he has no satisfactory assurance.

Upon the official ballot he will find:

“Delegates to State convention, delegates to congressional convention, delegates to judicial district convention, delegates to senatorial district convention, delegates to county convention, delegates to assembly district convention, delegates to city convention, delegates to any other convention in such order as the custodian of primary records shall determine” in addition to members of committees.

The voter's rights, with all this complicated mechanism ostensibly for his protection, come to the selection of those intermediaries who, as experience shows, are generally the mere counters of political leaders.

The matter is made worse by the arrangement of the ballot. The bill provides for a division of the ballot into columns so that the delegates to the various conventions, proposed by the organization, shall be found in one column at the extreme left and may be voted for by a single mark in a circle at the top of the column. The rivals for selection as delegates are to be placed in other columns with similar provision for straight voting.

This is designed to facilitate straight voting and, coupled with the use of the delegate system, to ensure control by the party managers of the nomination of candidates for public office. The voters are not only debarred from directly expressing their wishes as to particular candidates for nomination to public office, but even as to the choice of delegates the machinery is contrived against them in the interest of the party managers.

Contests under this plan are likely to be more with respect to party leaders, with all the power which is ensured to them, than with respect to candidates for public office. This puts a premium upon factional strife and the play of selfish interest, instead of giving freer course to intelligent and independent opinion within the party.

It is further provided that "the name of a person shall not appear more than once on the ballot as a candidate for the same party position," so that even if the delegates for one convention, proposed by the organization, are satisfactory, they cannot be included in another column, and the very fact that they are desirable makes more difficult the opposition to delegates proposed for other conventions. Whatever may be the propriety of such a restriction with respect to a properly arranged ballot, it is manifestly indefensible in connection with the ballot of the sort proposed by this bill.

I shall not attempt to enter into a consideration of the minor imperfections of the bill to which I have referred, as in my judgment it is structurally unsound and should not be treated as a proper measure of reform.

I desire again to direct the attention of your honorable body to the gravity of the questions involved and to express the hope that before adjournment you will provide for a suitable measure for the correction of primary abuses and thus respond to what I believe to be a just and urgent demand of the people of the State.

(Signed)

CHARLES E. HUGHES.

TO THE EXTRAORDINARY SESSION

Recommending an Amendment to the Law Relating to Primaries, the Making of Suitable Provision for Direct Nominations of Candidates for Public Office, the Giving of Authority for the Investigation into Corrupt and Improper Practices in Connection with Legislation and Consideration of the Best Means to Provide Additional Revenue for the State.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 20, 1910.

To the Legislature:

I have convened you in extraordinary session in order that appropriate action may be taken with regard to matters which I believe to be of first importance to the interests of the people of the State.

First.—I recommend for your consideration the subject of the amendment of the law relating to primaries, the making of suitable provision for direct nominations of candidates for public office, and, in connection therewith, provision for representative and responsible party management.

The people are dissatisfied with existing conditions and demand a change. Whatever may be said of imperfections in the laws relating to this matter in other jurisdictions, there can be no question but that these laws reflect a wholesome sentiment which is country-wide and cannot be denied. That sentiment is that the instrumentalities of party management shall not be so arranged as to facilitate the purposes of those who would subvert government to their selfish advantage. It is a sentiment that demands for the members of political parties simple and direct methods by which they can exercise their just rights in determining party choices. It insists that the work and preferences of party managers shall be brought to the test of party opinion freely expressed, to the end that leadership that dishonors the party may be more readily overthrown, and that it may be easier to give effective support to honest party management in the public interest.

The people in this State, as well as elsewhere, are not disposed to tolerate a continuance of a system which experience condemns because it fosters an alliance between business and politics and tends to make departments of government the servitors of those they are intended to control. The need is to give this sentiment proper expression in well-devised measures.

The essentiality of parties in the working of our system of government, and the necessity of strong and capable party organization, make it of first consequence that these instruments of democracy should not be used against itself. The more loyal one is to his party and the stronger his conviction of the importance of his party's principles and policy, the more keenly must he resent perversion of its counsels and deprecate the alienation by reason of their resentment at despotic control of those who form the strength of its electorate. This applies to all parties, for the greatest danger to any party is to lose the moral support and enthusiasm of its rank and file and the cordial interest of its intelligent and unselfish members who cannot make political activity a vocation. Methods that produce and support oligarchy are destructive of the party health.

The wider the extension of governmental work, the more important becomes the question of its quality, its economy and efficiency. The larger our outlays the more important it is to secure disinterested service and to relieve the public officer from obligation to those who would use the departments of government as a base of supplies in maintaining control of party machinery. The more complete the supervision of the exercise of public franchises and of the operations of business closely related to the public interest, the more important is it to secure fairness and impartiality in the exercise of administrative authority.

We must safeguard the purity of the ballot and protect our general elections from violence and fraud; but to secure the administration of government upon a sound basis, we must insist not only upon proper methods on election day, but a fair and free opportunity within the party on primary day.

The reform which has been urged for your consideration is not impractical or visionary. It consists of provision for enrollment of the party voters, for a fair and suitably arranged official

primary ballot, and for a proper opportunity to the party voter to express directly his choice in the selection of candidates for public office, and also in the selection of those who, holding party positions, may submit recommendations with respect to candidates. I believe that opportunity should be provided to those who have been chosen to represent the party to make their recommendations and thus to secure to the party the advantage of their conference and open advice. But the decision should not rest with the party managers. The delegate system in the main operates to give the decision to the managers while cloaking their responsibility under the form of a choice by the representatives of the party voters. The members of the party should have the substance and not merely the form. While, as I have frequently said, public opinion under our existing system wins its victories now and then in exceptional cases, these victories are won against unnecessary odds. These obstacles should be removed.

The bill which was passed at the recent session I was unable to approve for the reason stated in my special message upon that subject. A measure providing for a system of direct nominations of candidates for elective offices, including the candidates for State offices for which all the electors of the State are entitled to vote, was, much to my regret, defeated in both houses. For I believe that this measure, with its careful provision to give due place to the proper working of party organization while enforcing the rights of the party voters, would have accomplished genuine reform. I have not changed my belief with respect to the advisability of this measure, and I trust it may yet commend itself to the judgment of the Legislature.

Another measure was introduced which, proceeding along the same lines and adopting the same basic principles, was applicable to the nomination of candidates for members of Congress, for the Senate and Assembly and for numerous county officers. This bill was passed in the Senate in the closing days of the recent session, but being brought to a vote on the eve of adjournment, failed of passage in the Assembly. While the measure did not go as far as I believe we should go, nevertheless it represented a substantial reform. And its failure to secure the ap-

proval of both branches of your honorable body has left a condition which should be remedied without delay.

Next fall we elect the executive officers of the State,* members of Congress, an entire new Legislature and many county officers. We shall not again have as important an election for two years, and it will be four years before there will be another election at which State issues will have the same degree of relative importance.

In my judgment proper action at this time should be taken to meet the insistent demand for a suitable system of direct nomination of candidates for public office. And I earnestly urge this subject for your most serious consideration.

In submitting this matter I include whatever further measures may be found advisable to safeguard both primary and general elections.

Second.—I further recommend for your consideration the subject of giving a more ample authority for the investigation into corrupt and improper practices in connection with legislation.

The disclosures of the past session in the inquiry held by the Senate, and the results of the examinations conducted by the Superintendent of Insurance, created a general conviction that there should be a full and complete investigation with regard to abuses of legislative methods. In my message to the Legislature of April 11, 1910, I recommended that provision should be made for an inquiry which should be immediate, impartial, thorough and unsparing. A concurrent resolution has been adopted by your honorable body for the appointment of a legislative committee of investigation. An examination of this resolution, however, has led me to the conclusion that it is important to the public interest that the authority of the committee should be enlarged.

No one can favor the exploiting of baseless rumors or the subjection of the innocent to unjust and harrowing suspicion: but on the other hand every effort should be made to disclose and, if possible, to punish those who have perpetrated through legislative corruption the greatest wrongs from which the State can suffer. It is due to the people of the State that those who

have betrayed their trust or have poisoned the springs of government should be uncovered and branded, and that whether or not this result can be attained, the adequacy of the measures taken to that end should be such as to secure the public confidence.

Your committee cannot act outside its powers, and, with respect to a subject not confided to it, it will possess no authority and it can compel no evidence. A committee with proper power may use its discretion reasonably to prevent its inquiry from being made an instrument of injustice; but it should have the power essential to accomplish the purpose of its being.

The resolution provides specifically for the investigation of "all corruption and corrupt practices shown to exist by the evidence in the recent investigation had before the Senate of the State of New York," and "all matters indicating corrupt practices in connection with legislation which have developed in the recent investigation conducted by the Superintendent of Insurance."

It is well that the matters thus referred to should be the subject of inquiry. But the interest of the people of the State is not confined to an investigation of the corruption shown in the Senate proceedings or indicated by matters developed in the examination conducted by the Insurance Superintendent. It is just as important that corruption should be exposed whether or not it was brought to light or indicated in those particular investigations.

But with respect to other corrupt practices, not so shown or indicated, the resolution provides that the committee is to proceed upon a "specific charge, verified upon knowledge of corrupt practices, or official misconduct in connection with legislation or the legislature or with any matter or proceeding before any state department, board, body or officer."

I have not overlooked the general clause of the resolution relating to any other matters pertaining to the conduct of the business of the State and its officers, but there is danger that its general words may be deemed limited by the specific language above mentioned with respect to corrupt practices. In such a matter there should be no ambiguity.

The resolution further provides that "any person charged with official misconduct shall be entitled to be represented by counsel and to subpoena and examine and cross-examine witnesses." It thus contemplates with respect to such matters a virtual trial upon specific charges verified upon knowledge by those who present them. This provision is of such a character, and the probability of specific charges verified upon knowledge being presented is so slight, that it would seem likely that the actual investigation by the committee of corrupt practices would be limited to what was shown in the Senate inquiry or developed before the Superintendent of Insurance.

I believe that this is a mistake, and that the purposes that your honorable body had in view in providing for an investigation will be attained only by giving such authority to the committee that it may neither be ignored nor be defied, trusting to its discretion to conduct the investigation in a thorough and at the same time just and reasonable manner.

It should also be remembered that the function of the committee is to investigate "to the end that such remedial legislation may be enacted or change of method in the conduct of public business be adopted as will prevent a recurrence of any abuses or evils disclosed." To accomplish this result I believe it would be better for the committee to proceed as an investigating committee, and not be resolved by a required course of procedure into a trial court.

I also question the wisdom of limiting the power of the committee with respect to charges of official misconduct against candidates for office to those that may be received before September 1, 1910. This may be questioned quite as much in the interest of those unjustly accused as in the interest of the people at large. If charges sufficiently grave to warrant the attention of the committee are currently reported, it will not help matters that they may not be the subject of investigation by the committee. If on the other hand the charges are mere baseless rumors designed unjustly to affect a candidate for office, the power of the committee to make a prompt examination will tend not only to discourage their circulation, but will afford an instant opportunity to expose their worthlessness.

✓ I make this recommendation to the end that nothing should be lost through want of power or thoroughness, and believing that a proceeding conducted broadly and with directness at this opportune time will not only result in an improvement of methods with respect to legislative action and procedure but also protect the honor and dignity of officers of government who, in the main, in and out of the Legislature, are honorably striving to do their duty, and who detest and desire to eradicate the corrupt and improper practices of the few, by which they are involved in an unjust and common reproach.

Third.—I also recommend for your consideration the subject of the financial condition of the State and the best means to provide additional revenue.

The bills passed this year contain appropriations (exclusive of trust funds and bond issues) amounting to \$46,970,571.93. Deducting the contributions made from the general fund, in lieu of direct tax, to the sinking funds for the highway and canal debts (\$2,655,600), the remaining appropriations reached the total of \$44,314,971.93.

In his last annual report the State Comptroller estimates the income of the State for the fiscal year ending September 30, 1910, at about \$34,000,000. This is doubtless a conservative estimate, and with the additional receipts which are expected under the new Motor Vehicle Law it is fair to assume that the income for the current fiscal year will be about \$36,000,000.

In the appropriation bills passed by the Legislature, I have disapproved items amounting to \$4,713,747.67, reducing the amount of the appropriations (exclusive of contributions to the sinking funds) to \$39,601,224.26. But to ascertain the entire charge upon our income, the contributions to the sinking funds (\$2,655,600) must be added to the appropriations as approved, and we thus have a total of \$42,256,824.26.

This is from \$5,000,000 to \$6,000,000 in excess of the amount which we have a right to assume will be received by the State, during the next year, as income available to meet the appropriations to which I have referred.

In dealing with this situation we ought not to look entirely to the State's surplus moneys for they are no greater than we should have as a reserve against contingencies.

It has been the practice covering a long period of years to determine the "surplus" at the close of each fiscal year by making the following adjustments: After deducting appropriations in force from cash on hand, there has been added the aggregate of expenditures on account of the immediately available appropriations which have been made at the legislative session of that year. This addition has been in accordance with the bookkeeping principle of referring all appropriations at a given session to the accounts of the next fiscal year. The fact should be considered, however, that the making of a large amount of appropriations immediately available, and their expenditure before September thirtieth in a given year, may thus greatly augment the amount of "surplus" as determined at the end of that year. The bookkeeping principle referred to has had the sanction of long-continued custom and affords a valuable basis of comparison, but in determining the amounts of money actually available at a given time we must consider the amount expended up to that time and the appropriations then in force.

On September 30, 1908, our actual cash surplus, after deducting the appropriations then in force, amounted to \$9,350,408.96. To this were added the appropriations made by the Legislature of 1908 expended before September 30, 1908 (\$3,507,375.10), making the surplus at the end of the fiscal year \$12,857,784.06.

During the fiscal year ending September 30, 1909, instead of receiving the customary \$9,000,000, or more in liquor taxes, the State received only about \$5,000,000. This was due to a change in the date for issuing liquor tax certificates, but it had the effect of reducing our balance on September 30, 1909, by about \$4,000,000. The surplus at the end of the year, computed in the customary way, amounted to \$8,481,023.53. The actual cash balance, however, after charging the appropriations in force, was only \$2,656,241.77, the remainder (\$5,824,781.76) being the addition of the appropriations of 1909 which were expended before September 30th of that year.

In his last annual report, the State Comptroller has estimated, after charging all the appropriations in force on October 1, 1909, that our available cash on September 30, 1910, will be \$6,002,389.37. But this estimate is made without adjustment either to take account of the appropriations of 1909 which may remain

unexpended on September 30, 1910, or of the appropriations made at the recent session which will be expended before the latter date.

It may well be that our surplus at the close of the current fiscal year will be found to be as large as that at the end of the last fiscal year, and our actual cash balance may indeed be greater than the balance we then had. But in view of the amounts that have been appropriated, to be immediately available, it is clear that we cannot assume that our available moneys will be any greater than the sum we must maintain as a working balance, and we must make our financial arrangements accordingly.

The demands upon administration are continually increasing. There is not the slightest ground for the expectation that the people of the State will permit any substantial reduction of our activities. The interests of agriculture and of labor, the demands of education and of public charity, the protection of public rights with respect to public possessions and the instrumentalities of intercourse, the making of suitable provision for the just settlement of controversies with those holding public privileges and the safeguarding of the community against its exploitation, the execution of the police powers to guard health and safety, require numerous administrative facilities which cannot be withheld, and the tendency unquestionably will be to increase rather than to diminish them. This will be not only because of the needs due to increase of population, but by reason of the constantly growing demand for improved governmental methods and for more humane and enlightened service along lines that are commonly accepted as being within the proper scope of governmental action.

The number of those who should be cared for in our hospitals for the insane is now increasing, I am informed, at the rate of about one thousand a year. On the basis of three thousand to a hospital, this would mean a new hospital every three years. Several of our hospitals are now shockingly overcrowded. We are enlarging the accommodations at Kings Park, Central Islip and Ward's Island. We have started the new Mohansic Hospital and still another will soon be provided. The demands on the

part of our charitable institutions for increased accommodations, for betterments to secure the ends for which they were established, as well as for necessary up-keep, are very heavy. Our prisons are overcrowded. We have two new prisons under way. We are constructing a new State Education building for which, and the new power plant, the sum of \$1,500,000 has been appropriated this year.

Our policy with respect to road improvement carries with it not merely the construction of new roads but road maintenance, which under existing conditions of travel and by reason of neglect in the past requires large expenditures, destined annually to increase as additional roads are provided.

We build our State institutions, hospitals, charitable institutions, prisons and public buildings out of income. No private business would charge its income as does the State. I do not object to this policy so far as public buildings and institutions are concerned, for the demand for new ones, for betterments and improvements is so great from all parts of the State that the necessity of providing for them out of income affords a check which, though irritating to many good citizens who would prefer still more rapid progress, is undoubtedly wholesome in its restraint.

But the fact remains that paying for these additions to the permanent holdings of the State out of income, imposes upon our annual resources a very serious burden in addition to that created by the necessities of administration. The buildings and improvements we now have in course of construction call for very large amounts of money, and undoubtedly as these are completed, other demands now postponed will have to be reckoned with.

Our income is derived from indirect taxation. In our estimate for the current year we find that, taking the \$31,000,000 expected outside of miscellaneous receipts, over \$29,000,000 is estimated to come from the liquor tax, corporation taxes, inheritance tax and stock transfer tax.

When the bond issues for the canal and highway improvements were voted, the people under the constitutional provision authorized a direct tax sufficient to provide an amount annually

which would take care of the interest and pay the principal of the bonds at maturity. In recent years this direct tax has not been levied and contributions from the general receipts of the State have been made to the sinking funds. By the legislation of last year the excessive amount previously required was reduced to the actual need. But even with this reduction we appropriate this year out of the general funds \$2,655,600 to these sinking funds in lieu of a direct tax. As the canal and highway improvements proceed and larger issues of bonds are made, the amount required annually for the sinking funds will be so large that it will be absolutely impracticable to make the contributions from the general fund. In four or five years the annual requirement, if all the bonds are issued, as is expected, will probably be as high as \$8,000,000. It may not be necessary at this time, in view of the smaller amount of the contributions now required, to go back to a direct tax for this purpose, but it will soon be necessary. I may add that my reflection upon this matter has led me to the conclusion that when the people authorize a bond issue upon a basis of a direct tax to pay the bonds, that direct tax should be imposed.

The question recurs, however, what should be done to meet the difference between the estimated income for the next year and the appropriations.

With this in view the Legislature passed Assembly bill No. 2560, entitled "An act to amend the tax law, relative to taxable transfers." From such information as I have, I doubt whether the provision made by this bill would be adequate to meet the exigency, but this aside, the bill is open to serious objections.

This is not because the bill provides for what is called a "progressive inheritance tax." Such a method of taxation has, I believe, the support of sound economists and of intelligent public opinion.

The objection lies to the method of graduation. The progressive rate appears to depend not upon the amount of property or interest received by the individual transferee, but upon the size of the whole estate passing to those who are not exempted from the provisions of the law.

As the law stood prior to 1892 the Court of Appeals held that the aggregate amount of the estate should not be considered in determining whether a tax should be imposed, but instead the specific share passing to the individual transferee. But in the revision of 1892 the word "property" was defined to mean the property passing or transferred, not that portion of it received by an individual transferee; "thus making the limitation of the statute apply to the aggregate value of the property transferred, not to the separate value of each several transfer."

This definition is not changed by the bill to which I have referred, and it would seem that the sections relating to the proposed graduated tax must be construed accordingly.

The bill provides that the tax imposed with respect to collateral relatives and strangers shall be seven per cent if the value of the property does not exceed \$100,000; eight per cent if it exceeds \$100,000 and does not exceed \$250,000; and ten per cent if it exceeds \$250,000. In the case of those within section 221 of the Tax Law, including father, mother, husband, wife, child, brother and sister, the tax of one per cent is imposed if the property is of the value of \$10,000 or more and does not exceed \$100,000; two per cent if it exceeds \$100,000 and does not exceed \$250,000; and five per cent if it exceeds \$250,000.

Hence under this bill it would seem that persons who stand in the same relation to two decedents and receive legacies of precisely the same amount will pay inheritance taxes at different rates according to the size of the estate left by the decedents respectively.

This method of graduation has been condemned as opposed to sound policy.

Our present law, having no system of graduation but distinguishing merely between those intimately related to the deceased, and collaterals and strangers, does not evoke the sense of injustice as would inevitably the new system.

The objections to such a system are forcibly stated in the opinion of the United States Supreme Court, in the case of *Knowlton v. Moore* (178 U. S. p. 76) denying the contention that the rate of tax under the Federal War Revenue Act of

1898 was measured by the whole estate. With respect to this contention the court said :

“ In other words, the construction proceeds upon the assumption that Congress intended to tax the separate legacies, not by their own value, but by that of a wholly distinct and separate thing. But this is equivalent to saying that the principle underlying the asserted interpretation is that the house of A, which is only worth one thousand dollars, may be taxed, but that the rate of the tax is to be determined by attributing to A's house the value of B's house, which may be worth a hundredfold the amount. The gross inequalities which must inevitably result from the admission of this theory are readily illustrated. Thus, a person dying, and leaving an estate of \$10,500, bequeaths to a hospital ten thousand dollars. The rate of tax would be five per cent, and the amount of tax five hundred dollars. Another person dies at the same time, leaves an estate of one million dollars, and bequeaths ten thousand dollars to the same institution. The rate of tax would be $12\frac{1}{2}$ per cent, and the amount of the tax \$1,250. It would thus come to pass that the same person, occupying the same relation, and taking in the same character, two equal sums from two different persons, would pay in the one case more than twice the tax that he would in the other. In the arguments of counsel tables are found which show how inevitable and profound are the inequalities which the construction must produce. Clear as is the demonstration which they make, they only serve to multiply instances afforded by the one example which we have just given. * * *

“ It may be doubted by some, aside from express constitutional restrictions, whether the taxation by Congress of the property of one person, accompanied with an arbitrary provision that the rate of tax shall be fixed with reference to the sum of the property of another, thus bringing about the profound inequality which we have noticed, would not transcend the limitations arising from those fundamental conceptions of free government which underlie all constitutional systems. On this question, however, in any of its

aspects, we do not even intimate an opinion, as no occasion for doing so exists, since, as we understand the law, we are clearly of opinion that it does not sustain the construction which was placed on it by the court below."

The propriety of a progressive inheritance tax is abundantly supported by the report of the Special Tax Commission of this State, transmitted to the Legislature in January, 1907. This Commission which was broadly representative in character, was composed of Warner Miller, Samuel H. Ordway, Edwin R. A. Seligman, Thomas F. Grady, Merton E. Lewis, George R. Malby, Martin Saxe, Spencer K. Warnick, C. Fred Boshart, Sherman Moreland, Charles W. Mead, George M. Palmer and Arthur C. Wade.

The report of the Commission, while proposing a progressive inheritance tax, strongly condemned the method of graduation proposed by the present bill. The Commission said:

"Before deciding upon the rate of graduation, however, we must decide on the method. This involves the question as to whether the tax is to be levied and computed upon the entire estate transferred, as is the plan of the present New York law; or upon the individual's share coming to the recipient, which is the plan adopted by the more modern statutes of Wisconsin and California. The only substantial reason for assessing and computing the tax upon the entire estate, rather than upon the individual share received, is that greater revenue is thereby produced. We think, however, that this objection to taxing the individual share received can be overcome by so arranging the rates and percentages as to produce equally good results. On the other hand, reasons of fairness and justice, as well as sound theory, are on the side of the assessment and computation of the tax upon the individual share received. For recipients who belong to precisely the same class and receive precisely the same amount will thereby in all cases pay precisely the same tax; whereas, if the percentage of tax were determined by the size of the estate, one of such a class might be compelled to pay far more than another.

For example, if the rate of tax is three per cent to collateral relatives, in the case of small estates, rising to fifteen per cent to such relatives in the case of very large estates, a cousin who receives a legacy of \$1,000 from a man of moderate means would have to pay a tax of only \$30 upon it; whereas, a similar cousin of a man of great wealth who receives a similar legacy of \$1,000, would have to pay a tax of \$150 upon it. It was because of precisely such discrimination as this that the first progressive inheritance tax law, passed in Wisconsin in 1899, was declared unconstitutional; and while it perhaps cannot be claimed to be unconstitutional in this State, such a state of affairs is certainly unjust and to be avoided. * * *

“The reservation by the Supreme Court of the United States of its decision upon this important constitutional question affords, in our opinion, a controlling reason why the method which the Supreme Court has declared to involve ‘profound inequality’ should not be adopted, and why, on the other hand, the method approved by the Supreme Court, and which we now advocate, should be adopted.

“There is another reason, which we may perhaps call a sociological one, for the adoption of the plan which we advocate, namely, the calculation of the tax upon the amount coming to the individual recipient, rather than upon the entire estate. The result of this plan is to make the tax somewhat less severe where an estate is divided among a number of beneficiaries, than in cases where it is left to a single legatee. We think it will be generally agreed that it is desirable that enormous fortunes should be widely distributed, and not handed down to a single recipient to be increased and constantly to grow to even greater size. Our States have never tolerated the law of primogeniture. We believe there is a strong public opinion in favor of the diffusion of estates. We believe, therefore, that the adoption of the plan here recommended, by reducing to some extent the tax to be paid where a large estate is divided among many recipients, will tend in some measure at least

to the diffusion of the enormous wealth which has been heaped up by some of our more successful fellow citizens.

“The introduction of the plan of grading the tax by the size of the estate leads to these inequalities and is, in our opinion, a sufficient reason for changing the plan of computing the tax upon the entire estate, which has existed in New York for several years. For these reasons, therefore, your Commission recommends that the tax be assessed and computed upon the individual share received, rather than upon the whole estate.”

The approval of the bill which has passed the Legislature, with the inequalities involved in the practical operation of the law, would, I believe, lead to such general dissatisfaction as would speedily bring about its repeal, even if its validity were upheld.

On the other hand, the passage of a bill for a progressive inheritance tax with a suitable method of graduation which would appeal to the common sense of fairness might solve, in some degree, and perhaps altogether, the question of procuring the needed increase in revenues. The extent to which it would afford additional income is, of course, difficult to estimate with precision.

I do not wish to withhold from you the consideration of other means of raising revenue, but submit to you the entire matter, urging upon you the necessity of making immediate provision to meet the outlays that have been authorized.

(Signed) CHARLES E. HUGHES.

TO THE EXTRAORDINARY SESSION**Recommending an Appropriation for the Expenses of
the Session**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, July 1, 1910.

To the Legislature:

I recommend for your consideration the subject of making
suitable appropriation for the expenses of this session.

(Signed) CHARLES E. HUGHES.

Resignation of the Governor

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, October 6, 1910. At 3.45 P. M.

To the Legislature:

I hereby resign the office of Governor.

(Signed) CHARLES E. HUGHES.

III

VETOES

III

VETO MESSAGES

Directing the Adjutant-General to Deliver the Battle Flag of the Twelfth Regiment of New York State Volunteers to the Veteran Volunteer Association of the Said Regiment

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, February 19, 1910.

To the Senate:

I herewith return, without my approval, Senate Bill No. 61, entitled "An act directing the adjutant-general of the state of New York to deliver the battle flag of the twelfth regiment of New York state volunteers, which was presented to said regiment by the ladies of Syracuse, New York, to the Veteran Volunteer Association of said regiment, by depositing the same in the Onondaga county clerk's office."

With respect to this bill, the Adjutant-General has filed a statement with me as follows:

"GENERAL HEADQUARTERS, STATE OF NEW YORK,

"ADJUTANT-GENERAL'S OFFICE,

"Albany, February 18, 1910.

"HONORABLE CHARLES E. HUGHES, *Governor of the State of New York, Executive Chamber, Albany, N. Y.:*

"SIR.—I have the honor to submit the following brief relative to Senate Bill, Int. No. 61, Printed No. 61, introduced by Mr. Holden, 'An act directing the adjutant-general of the state of New York to deliver the battle flag of the twelfth regiment of New York state volunteers, which was presented to said regiment by the ladies of Syracuse, New York to the Veteran Volunteer Association of said regiment, by depositing the same

in the Onondaga county clerk's office,' passed by the Senate February 2nd, by the Assembly February 3rd, and referred to you for action February 10th.

"The following data is based on 'New York in the War of the Rebellion' compiled by the late General Frederick Phisterer. This publication is considered authentic particularly with reference to origin of organization and muster of commands for service in the War of the Rebellion.

"Page 384, the sketch of the 12th Regiment of Infantry, refers to such organization as the Onondaga Regiment, Independence Guard, The Dozen. These names apply to different periods of the existence of the command.

"The following is a record of the original organization:

"Co. A was organized at Syracuse, April 23rd, 1861, and arrived at Elmira May 2nd, 1861.

"Co. B was organized at Syracuse, April 26th, 1861, and arrived at Elmira May 2nd, 1861.

"Co. C was organized at Syracuse, April 26th, 1861, and arrived at Elmira May 2nd, 1861.

"Co. D was organized at Homer, Cortland Co., April 23rd, 1861, and arrived at Elmira May 2nd, 1861.

"Co. E was organized at Syracuse April 26th, 1861, and arrived at Elmira May 2nd, 1861.

"Co. F was organized at Liverpool, N. Y., April 24th, 1861, and arrived at Elmira May 2nd, 1861.

"Co. G was organized at Canastota April 25th, 1861, and arrived at Elmira May 2nd, 1861.

"Co. H was organized at Syracuse April 26th, 1861, and arrived at Elmira May 2nd, 1861.

"Co. I was organized at Syracuse April 26th, 1861, and arrived at Elmira May 2nd, 1861.

"Co. K was organized at Batavia April 24th, 1861, and arrived at Elmira May 2nd, 1861.

"Elmira was the point of mobilization of organizations in the upper part of the State. While the companies may have been organized at different points the command as a whole was mustered into the United States service at Elmira, the term of service being for three months. Subsequent changes in the organi-

zation of the regiment and the units composing it were very great. On February 8th, 1862, companies of the 12th Militia organized in New York City, joined the battalion of five companies of this regiment, the 12th New York Volunteers.

"It must therefore be considered that interest in this color and for its preservation is not local in the City of Syracuse but extends over a large portion of the State.

"The present condition of this color is such that its very preservation and existence will depend upon its retention by The Adjutant-General of the State. The silk is so badly worn and tattered that exposure or slight handling would soon destroy its very existence.

"The policy of the State, endorsed by the Grand Army of the Republic, has been to deny all such requests for the transfer of the battle flag to the custody of others. Thousands and thousands of visitors, descendants of War veterans, visit the capitol to look at the colors carried by their parents.

"I would therefore request your disapproval of this measure.

"Respectfully,

"(Signed) NELSON H. HENRY,
"The Adjutant-General."

The objections set forth by the Adjutant-General seem to me conclusive, and the bill is therefore not approved.

(Signed) CHARLES E. HUGHES.

Making Certain Appropriations for the Maintenance and Support of Great Meadow Prison

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 5, 1910.

To the Assembly:

In the case of Assembly Bill No. 267, entitled "An act making an appropriation for the maintenance and support of Great Meadow prison, and for farm stock, equipment and supplies therefor," I have objected to certain items of appropriation of

money, and have approved the other portion of the bill. The items to which I have objected are set forth in a statement which I appended to the bill at the time of signing it, and a copy of such statement I transmit to you herewith.

(Signed) CHARLES E. HUGHES.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 5, 1910.

STATEMENT

The following items of appropriation of money contained in Assembly Bill No. 267, entitled "An act making an appropriation for the maintenance and support of Great Meadow prison, and for farm stock, equipment and supplies therefor," are objected to and not approved for the reason that they are unnecessary at this time. The items are:

"For salary of director of agricultural department, three thousand five hundred dollars (\$3,500)."

"For horses, wagons and harnesses, two thousand eight hundred dollars (\$2,800)."

"For cattle, pigs and poultry, two thousand dollars (\$2,000)."

Pursuant to section 9 of article IV of the Constitution, I object to each of the above mentioned items contained in said bill while approving of the other portion of the bill, and I append this statement to the bill at the time of signing it.

(Signed) CHARLES E. HUGHES.

Changing the Name of Grace Methodist Episcopal Church to "Van Alst Avenue Methodist Episcopal Church"

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 17, 1910.

To the Assembly:

I herewith return without my approval Assembly Bill No. 1567, entitled "An act to change the name of Grace Methodist Episcopal church of the borough of Queens, city of New York, to Van Alst Avenue Methodist Episcopal church of the borough of Queens, city of New York."

The object of this bill can be accomplished under the provisions of the General Corporation Law, relating to proceedings to change the name of a corporation.

(Signed) CHARLES E. HUGHES.

Authorizing the Maple Grove Cemetery Association to Accept a Gift or Bequest

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1910.

To the Assembly:

I return herewith without my approval Assembly Bill No. 2480, entitled "An act to authorize The Maple Grove Cemetery Association of Worcester, Otsego county, to accept a gift or bequest for the purpose of caring for a certain cemetery lot situate without the boundaries of the cemetery of such association."

This bill authorizes the Maple Grove Cemetery Association to accept a gift or bequest from an individual named of an amount in trust to use the income for the care and improvement of a certain private burial lot. It is unnecessary special legislation. It is entirely competent for the donor to create a trust for this purpose under section 13a of the Personal Property Law as

amended by chapter 218 of the Laws of 1909, and there is no reason why a bill should be passed merely to enable him to constitute a particular cemetery association as a trustee.

Indeed, it may be doubted whether the bill would carry out the real intention of the donor, as it expressly provides that the trust shall end in case the Maple Grove Cemetery Association disbands or its functions as a cemetery association cease, and that then the balance of the trust fund remaining shall be paid to the heirs at law of the donor if they can be found, and otherwise "shall be paid into the treasury of the State of New York."

The bill is disapproved.

(Signed) CHARLES E. HUGHES.

Conferring Jurisdiction Upon the Court of Claims to Hear and Determine the Alleged Claim of John M. Shultz

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 24, 1910.

To the Assembly:

I return herewith without my approval Assembly Bill No. 1063, Senate reprint No. 1366, entitled "An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of John M. Shultz against the State for damages alleged to have been sustained by him and to render judgment therefor."

This bill confers jurisdiction upon the Court of Claims to hear and determine a particular claim. Such bills are opposed to sound policy. The jurisdiction of the Court of Claims should be governed by general rules applicable impartially, and not by legislation in favor of particular claimants.

(Signed) CHARLES E. HUGHES.

**Amending the Code of Civil Procedure Concerning an
Appeal to the Court of Appeals from a Judgment or
Order of the Appellate Division of the Supreme Court**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 24, 1910.

To the Assembly:

I return herewith without my approval Assembly Bill No. 434, entitled "An act to amend the code of civil procedure, in relation to the filing of all papers in each action or proceeding in the same file, or bundle, and relative to the record on appeals to the court of appeals."

This bill proposes to amend the Code of Civil Procedure so as to provide as follows:

"Upon an appeal to the court of appeals from a judgment or order of the appellate division of the supreme court, the opinion of the appellate division, if any, shall, for the purpose of the appeal, be deemed to be a part of the judgment-roll or appeal papers."

This bill, in my judgment, instead of simplifying our State practice, would tend to promote confusion.

For example, section 1338 of the Code of Civil Procedure provides that a reversal of a judgment on the report of a referee or a determination in the trial court, shall be presumed to have been made on the law and not on the facts "unless the contrary clearly appears in the record body of the judgment or order appealed from." Where the reversal has been on the facts it is a simple matter for the Appellate Division to say so explicitly in the order of reversal, and the question should not be left to conflicting inferences drawn from the language of the opinion.

(Signed) CHARLES E. HUGHES.

Amending the Public Lands Law in Relation to Grants of Land Under Water

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 24, 1910.

To the Assembly:

I return herewith without my approval Assembly Bill No. 652, Senate reprint No. 1365, entitled "An act to amend the public lands law, in relation to grants of land under water."

This bill proposes an amendment to the Public Lands Law to confer authority upon the Commissioners of the Land Office to accept surrenders or reconveyances of lands under water heretofore granted to proprietors of adjacent lands for the purposes of commerce and thereupon to make grants to such proprietors on proper terms for beneficial enjoyment or for agricultural purposes.

It has been urged that it is thus intended to give a power to the Commissioners which formerly was supposed to exist, and that if exercised in favor of those who under certain circumstances have taken grants for purposes of commerce instead of grants for beneficial enjoyment, it will promote the development and security of industries.

On the other hand it is suggested that the purpose intended to be accomplished is to lay a basis for persuading the Land Board to make grants for beneficial enjoyment ostensibly in the interest of the proprietors of certain lands along the Hudson, and on terms suitable from that point of view, while in fact the grants would enure to the benefit of the New York Central & Hudson River Railroad Company under transfers from the grantees pursuant to arrangements to be made or already made.

Whatever may be the merits of these suggestions, there is a fundamental question involved which this bill brings before us for consideration. Lands under water belonging to the State, particularly in the lower part of the Hudson and along Westchester county and Long Island, are possessions of the greatest importance to the people of the State and should be parted with only on conditions absolutely safeguarding the common interest.

Our statutory scheme of dealing with lands under water is

not satisfactory. In 1899 Governor Roosevelt in a letter to the Land Board said: "It seems to me questionable policy to alienate the land of the State. Would it not be better to lease it for a fixed term of say twenty-five years with power of renewal, or what conditions are deemed best? I don't say definitely that this course is the right one to follow, but I would like your Board to consider what is the proper policy to pursue."

We are making important public improvements, and further improvements of vast import to our future prosperity are in contemplation. The development of water powers, the regulation of streams and the improvement of navigation will of necessity raise many questions with regard to the rights of the State in lands under water and the compensation which must be paid by the State where private rights are impaired in the prosecution of public works. The State should sedulously guard whatever may now be its own and should in every way protect itself against improvident grants.

In saying this I intend no reflection upon the Commissioners of the Land Office, who I am informed are now considering these questions. I desire to direct attention to an inadequate system which we should be solicitous to improve.

Before making further grants for beneficial enjoyment there should be a careful examination to ascertain the present rights of the State in lands under water and the effect of grants heretofore made. There should be careful statutory provision requiring adequate scrutiny and appraisalment in cases of applications for grants, and wherever rights are granted there should be provision for such compensation, and for such revaluation at stated periods, and for such limitations as will secure to the State the returns which are proper for the privileges it gives and also suitable reversionary rights in case the State or municipalities may need the property for public purposes.

It cannot be doubted that the policy pursued in the past, although thought sound at the time, has entailed serious losses. This measure continues it and enlarges its possibility of evils, at a time when a new and wiser policy should be adopted.

(Signed) CHARLES E. HUGHES.

VETO MEMORANDA

Statement of Appropriations

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

The total appropriations (exclusive of re-appropriations, payments from sinking funds, from trust funds, and from proceeds of bond sales, and bond issues) which have been made by the Legislature this year amount to..... \$46,970,571 93

These include contributions from the general fund in lieu of direct tax to:

Canal debt sinking fund.....	\$1,601,100 00	
Highway debt sinking fund..	1,054,500 00	
	<hr/>	2,655,600 00

The amount of the other appropriations is....	\$44,314,971 93
The bills and items disapproved by me amount to	4,713,747 69

Making the total of appropriations (exclusive of sinking fund contributions) as approved.. \$39,601,224 26

As compared with the total appropriations of 1909, as approved \$36,242,129 69

Which included contributions to canal and highway debt sinking funds of.....	2,097,200 00	
	<hr/>	34,144,929 69

Increase of 1910 over 1909.....	\$5,456,294 57
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I have filed memoranda giving the reasons for my action upon the various appropriations. The bills which I have approved cover appropriations for the State hospitals for the insane, for

charitable institutions, for prisons, and for education, including our existing agricultural schools, and the appropriations for these purposes which I have disapproved could not, in my judgment, be properly allowed at this time.

The items and bills disapproved by me are as follows:

Supply bill	\$1,283,949 11	
General appropriation bill....	77,600 00	
	<hr/>	\$1,361,549 11
Fish Hatchery, Bemus Point.....	10,000 00	
Drafting legislative bills, etc.....	3,500 00	
Refund to town of Rye.....	6,949 76	
Albany armory	150,000 00	
Newburgh armory	150,000 00	
Geneva armory, land.....	4,600 00	
Mt. Vernon armory.....	87,000 00	
Malone armory	80,000 00	
47th Regiment armory.....	100,000 00	
Olean armory	87,000 00	
Fire Island park.....	15,000 00	
Herkimer land purchase	15,000 00	
Fredonia Normal School.....	30,000 00	
Potsdam Normal School.....	80,000 00	
Albany Normal College.....	40,000 00	
Agricultural Experiment Station.....	30,000 00	
Reimbursing Frederick Skene.....	5,478 80	
West Canada Creek, dredging.....	75,000 00	
Tonawanda Creek improvement.....	5,000 00	
Keuka Lake, outlet, dredging.....	20,000 00	
Powell Creek dredging.....	20,000 00	
Mill and Long Creek dredging.....	5,000 00	
Black River improvement	100,000 00	
Delaware River dykes, Highland.....	10,000 00	
Delaware River dykes, Port Jervis.....	35,000 00	
Mohawk River dyke.....	7,500 00	
Cornell University School of Sanitary Science.	10,000 00	
Syracuse University College of Forestry.....	55,000 00	
Canal survey	5,000 00	

Wood Creek improvement.....	\$3,000 00
New Agricultural School at Bainbridge, Chenango county	50,000 00
New Agricultural School at Cobleskill, Schoharie county	50,000 00
New Agricultural School, Long Island.....	50,000 00
New Agricultural School at Delhi, Delaware county	50,000 00
New Agricultural School at Middletown, Orange county	50,000 00
New Agricultural Experiment Station, Niagara county	15,000 00
Special bill for State prisons (total \$123,361), items deducted	38,050 00
Special bill for charitable institutions (total \$913,060), items deducted	617,800 00
Special bill for hospitals for the insane (total \$1,456,540), items deducted.....	629,670 00
Letchworth Village (total \$101,000), items deducted	93,750 00
Agricultural School at St. Lawrence University (total \$53,000), item deducted.....	26,000 00
Long Island State Hospital.....	100,000 00
Starch Factory Creek improvement.....	9,000 00
Enforcing pure food law.....	13,400 00
Additional bill for Training School for Boys..	304,500 00
Milk production demonstration.....	10,000 00
Total items disapproved.....	<u>\$4,713,747 67</u>

The increase in the appropriations of this year, as approved over those of the year 1909, is due to the increased cost of maintenance in the State hospitals for the insane, in the charitable institutions, and in prisons; to the increase in salaries of the Supreme Court Justices under the recent constitutional amendment; to the increased amount required for the support of common schools and normal schools; to the increased appro-

priation for highway construction and maintenance, apart from the amount payable out of proceeds of bonds; to the allowance for the abolition of grade crossings; to the additional amount needed for land, construction of buildings and equipment; and to the amounts appropriated for the Secretary of State (to enable him to carry out the new Motor Vehicle Law), and for the Health Officer of the Port of New York, who now for the first time has direct appropriations, his receipts being covered into the treasury.

The appropriations for a period of years have been insufficient to provide for maintenance in the hospitals for the insane, and there has been an accumulating deficiency, now amounting to \$1,231,139.28, which has been covered by a special bill this year. There is also an increase in the amount for advances to county treasurers.

These items aggregate about \$5,500,000, and these alone are sufficient to account for the increase in this year's appropriations over those of last year.

These increases are as follows:

Increase in salaries of Justices of the Supreme Court under the recent constitutional amend- ment:	
Supply bill from January 1, 1910, to October 1, 1910....	\$228,600 00
Appropriation bill October 1, 1910; to October 1, 1911..	312,000 00
	<hr/>
	\$540,600 00
Increased appropriations for support of common schools and normal schools.....	325,000 00
Special bill for accumulated deficiency, in maintenance of hospitals for the insane...	1,231,139 28
Increase in appropriation for maintenance of hospitals for the insane for the ensuing year.	699,754 00
Increase in appropriation for maintenance of charitable institutions for ensuing year....	137,167 76

Increase in appropriation for maintenance of prisons and convicts in penitentiaries, for ensuing year, together with compensation of sheriffs	\$105,500 00
Increase in appropriation for advances to county treasurers on account of taxes.....	45,000 00
Increase in appropriations for highway construction and maintenance (apart from proceeds of bonds).....	526,210 46
Amount allowed for grade crossings (no appropriation last year)	600,000 00
Increase in appropriation for Secretary of State to enforce new Motor Vehicle Law:	
Appropriation bill	\$190,000 00
Supply bill	60,000 00
	<hr/> 250,000 00
Increase to provide for appropriation for health officer, Port of New York (no appropriation last year)	175,320 00
Increase in construction items, land, buildings, and equipment	858,738 62
(Included in the appropriations this year is \$1,500,000 for the new State Education Building and power plant)	
These items of increase amount to....	<hr/> \$5,494,430 12 <hr/>

The Governor has no authority to reduce specific items of appropriation but must either allow or reject them. In the exercise of this power I have preserved the items required to discharge the obligations of the State and to secure a proper conduct of its enterprises, while rejecting those which seemed to me unnecessary or unwise.

(Signed)

CHARLES E. HUGHES.

The Annual Appropriation Bill — Items Vetoed

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 2687, entitled "An act making appropriations for the support of government."

Statement of items of appropriations of money contained in said bill which are severally objected to, to wit:

On page 16, under the head of Court of Claims:

"For the expenses and disbursements of each judge, two thousand eight hundred dollars, payable monthly, eight thousand four hundred dollars (\$8,400)."

This item is not properly drawn so as to limit the appropriation to actual and necessary expenses incurred in the discharge of official duties elsewhere than in Albany.

On page 31, under the head of Office of the Attorney-General:

"For the compensation of accountants to examine the books and accounts of receivers, as required by section two hundred and forty-nine of the general corporation law, and to render such other services, if any, as the attorney-general may deem necessary, ten thousand dollars (\$10,000), or so much thereof as may be necessary."

In view of the provision otherwise made for this department, and the demands upon the State at this time, this cannot be allowed.

On page 76, under the head of Protection of Fish and Game:

"For the expenses of the chief protector, one thousand dollars (\$1,000),"

This seems to be unnecessary.

On page 79:

"For the purpose of reforesting burned or denuded lands in the forest preserve, and for preparing and distributing instructive pamphlets on forestry subjects, and for establishing additional nurseries for the propagation of forest trees, to be furnished to citizens of the State at cost, to be planted under the direction and regulation of the Forest, Fish and Game Commission, twenty thousand dollars (\$20,000), or so much thereof as may be necessary."

In view of the item in the supply bill for this purpose, this cannot be allowed.

On pages 99 and 100, under the head of Bureau of Industries and Immigration:

“counsel, two thousand four hundred dollars (\$2,400);”

“superintendent of branch office, one thousand eight hundred dollars (\$1,800);”

“eighth grade, one employee, one thousand eight hundred dollars (\$1,800);”

“seventh grade, three employees, four thousand five hundred dollars (\$4,500);”

“fifth grade, three employees, two thousand seven hundred dollars (\$2,700).”

“For the actual and necessary traveling expenses of the chief investigator and other employees of the bureau in the performance of their official duties, six thousand dollars (\$6,000), or so much thereof as may be necessary.”

“For furniture, books, blanks, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, four thousand five hundred dollars (\$4,500), or so much thereof as may be necessary.”

“For printing, one thousand two hundred dollars (\$1,200), or so much thereof as may be necessary.”

“For the establishment and maintenance of schools in connection with labor camps, for the instruction of aliens living therein, six thousand dollars (\$6,000), or so much thereof as may be necessary.”

The legislation providing for the establishment of this bureau is a result of the work of the able commission appointed to inquire into the condition of aliens within the State.

It contemplates a field of activity of great importance and its benefits should not be lost. In view, however, of the present demands upon the State I cannot approve the establishment at this time of a bureau as extensive as that provided for in these items. I have left sufficient of the appro-

priation to provide for a small but reasonable beginning in connection with the Department of Labor, and there is no doubt that the work will be extended in the future as its quality and importance may justify.

On page 129, under the head of Fiscal Supervisor of State Charities:

“a purchasing agent, two thousand dollars (\$2,000);”

“a supervisor of farms, three thousand five hundred dollars (\$3,500);”

“a supervisor of food, one thousand eight hundred dollars (\$1,800);”

These items were intended to provide for outlays to be made pursuant to Assembly Bill No. 2474, entitled “An act to amend the state charities law, in relation to the regulation of state charitable institutions,” which has not been approved.

(Signed) CHARLES E. HUGHES.

The Annual Supply Bill — Items Vetoed

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, June 18, 1910

Memorandum filed with Assembly Bill No. 2686, entitled “An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations.”

Statement of items of appropriations of money contained in said bill which are severally objected to, to wit:

On page 8: “For the supreme court library at Long Island City, Queens county, in the second judicial district, the sum of one thousand dollars (\$1,000), or so much thereof as may be necessary.”

This is disapproved for the reasons stated in my memorandum on Assembly Bill No. 2297, entitled “An act to amend the education law, relative to establishing a law library in the second judicial district.”

On page 14: “For the comptroller, for furnishing steel

filing cases for original tax returns, deeds, abstracts of title, books and records relating to land titles, taxes and tax sales, and for furniture and other necessary repairs in the land tax bureau, fifteen thousand dollars (\$15,000), or so much thereof as may be necessary."

On page 36: "For the purchase and installation of fireproof vaults in the office of the state engineer and surveyor for the preservation of state records on file in his department ten thousand dollars (\$10,000), or so much thereof as may be necessary."

The completion of the Education Building will permit a rearrangement of offices in the Capitol. The advisability of adapting to the use of the Court of Appeals the building known as the State Hall, in which the offices of the Comptroller and of the State Engineer and Surveyor are now established, is under consideration. In view of the prospect of changes within a comparatively short period, it would seem inadvisable to make these expenditures at present.

On page 15: "For the comptroller, for the purpose of refunding tax for the year ending December thirty-first, nineteen hundred seven, erroneously paid into the state treasury under the provisions of section one hundred eighty-seven of the general tax law by the Svea Fire and Life Insurance Company, Limited, of Gothenburg, Sweden, the sum of six hundred thirty-eight dollars thirty-four cents (\$638.34), or so much thereof as may be necessary."

There appears to be no obligation on the part of the State to make this payment. The general law gave suitable opportunity for revision and readjustment.

On page 16: "For the comptroller for the expense necessarily incurred in the conduct of his office, including compensation of employees and agents, traveling and other expenses of employees made necessary by the creation of the 'bureau of licenses' for the licensing and supervision of private bankers, the sum of five thousand dollars (\$5,000), or so much thereof as may be necessary."

The expenses referred to are deemed to be sufficiently covered by another item of appropriation.

On page 19: "For the salaries of employees as follows: One in grade eight, three in grade six, and one in grade three, five thousand five hundred dollars (\$5,500), or so much thereof as may be necessary."

On page 19: "For the continuation of Farmers' Institute work, the sum of six thousand dollars (\$6,000), or so much thereof as may be necessary. Of the sum hereby appropriated the commissioner of agriculture may use a sum not to exceed ten per centum thereof for premiums, prizes or awards for educational competitive exhibits in connection with such institutes."

On page 19: "For the purpose of investigation and extermination of contagious diseases of plants and San José scale and other dangerous insect pests, eleven thousand dollars (\$11,000), or so much thereof as may be necessary."

On page 19: "For the investigation of insecticides and fungicides as provided by article six of chapter nine of the laws of nineteen hundred nine, being the agricultural law, seven hundred dollars (\$700), or so much thereof as may be necessary."

On page 19: "For the salary of one scientific assistant having special knowledge of insect pests and remedies therefor, two thousand five hundred dollars (\$2,500), or so much thereof as may be necessary."

On pages 19 and 20: "For the actual and necessary incidental expenses for carrying out the provisions of article twelve of chapter nine of the laws of nineteen hundred nine, being the agricultural law, in reference to dissemination of information concerning cheap farms in New York state, eight thousand dollars (\$8,000), or so much thereof as may be necessary."

On page 20: "For collecting and disseminating information relative to agricultural labor within the state, as provided by article twelve of chapter nine of the laws of nineteen hundred nine, being the agricultural law, two thousand dollars (\$2,000), or so much thereof as may be necessary."

On page 21: "For deficiency in appropriation for salary of the commissioner of agriculture, two hundred and fifty dollars (\$250)."

In the rearrangement of appropriations, a large number of items relating to the Department of Agriculture heretofore appearing in the Supply bill have been transferred to the general Appropriation bill. The provision thus made for the purposes above described, together with other appropriations which have been allowed, is deemed to be sufficient for the departmental work which can be authorized at this time.

On pages 22 and 23: Under the head of "For the New York State College of Agriculture at Cornell University."

"2. For necessary betterments in the present buildings, barns and farms, installing refrigerator plant, altering basement rooms, to provide for library stack-room, laying fire-proof floor in library, providing additional water supply, building roads, et cetera, five thousand dollars (\$5,000)." (page 22).

"4. For completing the enlargement of the present one-story north wing of the building of the State Veterinary College and equipment therefor, ten thousand dollars (\$10,000), or so much thereof as may be necessary, the same being in addition to the sum of twenty thousand dollars (\$20,000) appropriated by chapter four hundred thirty-three of the laws of nineteen hundred nine." (page 23).

On page 26: "For the state school of clay workings and ceramics at Alfred University, for addition to building, new kilns, heating plant and other equipment, twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary."

On page 27: "For the University of the City of New York for the maintenance of the department of veterinary science, five thousand dollars (\$5,000)."

We are endeavoring to meet the rapidly increasing demands of our institutional and educational work, but in the difficult duty of selection I find it necessary to disallow these items.

On pages 24 and 25, with respect to the State Fair Commission: "For moving track and grand stand, one tunnel under racetrack for horses, et cetera, to infield, one tunnel from grand stand for pedestrians only, one compartment at end of stable to complete section omitted last year on account of present position of track, wood floors for stalls in stables on

cinders built in nineteen hundred nine, doors to complete all box stalls in stables built in nineteen hundred nine, raising stall partitions in stables built in nineteen hundred nine, two planks higher than at present, reconstructing grand stand and increasing capacity, one hundred forty thousand eight hundred dollars (\$140,800), sewers ten thousand dollars (\$10,000), two loading docks nine hundred feet long by twenty feet wide each, twelve thousand dollars (\$12,000), two judging stands, one thousand dollars (\$1,000), electricity, light and water, five thousand dollars (\$5,000)."

On page 25: "For the salary of the secretary of the publicity bureau, of the New York State Fair Commission two thousand dollars (\$2,000)."

I am deeply interested in the consummation of the plans for the development of the State Fair. Large appropriations to this end have been made during the past two years. While it is desirable to make as rapid progress as possible, we cannot go faster than our income will permit.

On page 27: "For deficiency in appropriation for building inspectors made by chapter four hundred thirty-two, laws of nineteen hundred nine, the sum of four thousand dollars (\$4,000), or so much thereof as may be necessary."

This item is unnecessary as the work can be covered by other items of appropriation.

On page 29: "For the payment of attorneys, counsel, and deputies designated or employed in actions or proceedings brought in pursuance of the provisions of the executive law, seventeen thousand five hundred dollars (\$17,500), or so much thereof as may be necessary; but no warrants shall be issued for such payments until the amounts claimed shall be certified, audited, and allowed by the attorney-general and the governor."

On page 29: "For the expenses of investigating claims on behalf of or against the state, five thousand dollars (\$5,000), or so much thereof as may be necessary."

On page 31: "For the compensation of accountants to examine the books and accounts of receivers as required by section two hundred forty-nine of the general corporation law,

and to render such other services, if any, as the attorney-general may deem necessary, six thousand dollars (\$6,000), or so much thereof as may be necessary."

Other items of appropriation, which have been allowed, increasing the funds available for this department, are believed to be sufficient to carry the departmental work.

On page 34: "To Charles C. Lester, for services rendered in the actions brought by the people to enforce the provisions of chapter four hundred twenty-nine of the laws of nineteen hundred and eight, the sum of seven thousand five hundred dollars (\$7,500)."

"To Nash Rockwood, for services rendered in the actions brought by the people to enforce the provisions of chapter four hundred twenty-nine of the laws of nineteen hundred and eight, the sum of seven thousand five hundred dollars (\$7,500)."

In view of the circumstances in which this litigation was begun and has been prosecuted a question exists as to the liability of the State for these services. This litigation, furthermore, has not yet been terminated. If payment is to be made by the State it should be made upon the audit of the Attorney-General.

On page 34: "To Asa Bird Gardiner, as compensation in addition to the sum of two thousand dollars (\$2,000) heretofore provided for services in proceedings to liberate Harry K. Thaw from Matteawan State Hospital, the further sum of three thousand dollars (\$3,000)."

It appears that no agreement has been reached with respect to the amounts to be paid for all the services rendered in this matter. The entire claim should be the subject of audit by the Attorney-General.

On page 34: "To Charles A. Dolson, for additional compensation for services in a quo warranto proceeding in the supreme court in the name of the people of the state of New York against George B. McClellan and William Randolph Hearst to try the title to the office of mayor of the city of New York, two thousand dollars (\$2,000)."

I am advised that this claim has not been audited by the

Attorney-General, and it should be the subject of such an audit before it is paid.

On page 36: "For expenses incurred in preparing the exhibit of the state engineer and surveyor and exhibiting the same at the state fair, the sum of five hundred dollars (\$500), or so much thereof as may be necessary."

On page 104: "For expenses of exhibiting the work of the department at the state fair at Syracuse, three hundred dollars (\$300), or so much thereof as may be necessary."

These items are unnecessary, as provision is made in the appropriation for the State Fair for the collection, display and supervision of exhibits from State departments and institutions.

On page 15: "For the comptroller, for installing suitable filing system and for supplies for same, the sum of three thousand dollars (\$3,000), or so much thereof as may be necessary."

On page 16: "For the comptroller, for the proper preservation of records of the records of the war of eighteen hundred twelve, the sum of one thousand dollars (\$1,000), or so much thereof as may be necessary."

On page 21: "An additional amount of thirty thousand dollars (\$30,000) for the payment of indemnities for animals destroyed or taken under order of the commissioner of agriculture in accordance with the provisions of the agricultural law relating to bovine tuberculosis."

On page 36: "For indexing and filing books and maps in the office of the state engineer and surveyor, the sum of one thousand five hundred dollars (\$1,500), or so much thereof as may be necessary."

On page 36: "For the state engineer and surveyor for the cost of a survey, estimate and plans, for improving the Black river for navigation between the state dam at Carthage and Sacketts Harbor on Lake Ontario, the sum of twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary."

On page 37: "For the state engineer and surveyor, to pay the compensation, wages and expenses, including travel and

maintenance, of engineers in charting of such streams and lakes as are navigable or have been heretofore declared to be public highways, and making proper maps thereof and the compilation and publication of the same, copies of which maps and publications may be furnished by the state engineer to any and all persons desiring the same at the approximate cost of such publication, not including the expenses of surveys connected therewith, the sum of fifteen thousand dollars (\$15,000), or so much thereof as may be necessary."

On page 37: "For the state engineer and surveyor for making surveys for state departments, commissions and institutions, where no appropriation is available for such purpose, the sum of five thousand dollars (\$5,000), or so much thereof as may be necessary."

On page 37: "For the state engineer and surveyor for salaries, compensation and necessary expenses in investigating the waterways of the state, embracing a compilation of the history of all navigable streams and a general engineering reconnaissance to determine the characteristics of the streams and a study of the probable utility of the same for greater navigation facilities, and an investigation of the State's rights in said waterways, ten thousand dollars (\$10,000), or so much thereof as may be necessary."

On page 49: "For the construction and installation of steel filing cases for caring for office records, two thousand dollars (\$2,000), or so much thereof as may be necessary."

On page 52: "For continuing the survey, improving and plotting of state lands now under lease or to be leased in the future for the shell-fish industry, two thousand dollars (\$2,000), or so much thereof as may be necessary."

On page 53: "For repairs to building, two thousand five hundred dollars (\$2,500)."

On page 53: "For the purpose of purchasing one or two motor boats, for the use of the state fish and game protectors upon the waters of Oneida lake, the sum of three thousand dollars (\$3,000), or so much thereof as may be necessary."

On page 54: "For the purpose of purchasing a launch for use on the upper Niagara river, the sum of one thousand five

hundred dollars (\$1,500), or so much thereof as may be necessary."

On pages 54 and 55: "The sum of six thousand four hundred fifty dollars (\$6,450) for the purchase and acquisition of title by the forest, fish and game commission, in the name of the state, of the following described real estate in the county of Saratoga, the sum appropriated to be available only after the attorney-general has approved the title and form and execution of conveyances and certified such approval to the comptroller, to wit: Beginning in the east line of lot number three of the subdivision of lot number five of the twenty-third allotment of the patent of Kayaderosseras, at the northwest corner of a lot of land formerly owned by one Connors, and now owned by W. D. Green and Adelaide W. Sprott; and runs thence south twelve degrees and fifteen minutes east along the east line of said lot number three, one thousand two hundred nine feet to the south line of the twenty-third allotment; thence south sixty degrees forty-five minutes west along the south line of said allotment, two thousand three hundred forty-eight feet to the southwest corner of lot number five aforesaid; thence northerly along the west line of said lot number five, about two thousand six hundred eighty feet to the center of the road leading from the Grant cottage to Lake Bonita; thence easterly on a straight line, about two thousand four hundred feet, to the place of beginning.

"Also all that certain other tract or parcel of land situated on Mount MacGregor, town of Moreau, county of Saratoga and state of New York, described as follows: Beginning at an iron stake in the center of the highway leading from the depot to the Balmoral hotel; thence west sixty-two feet along the lands of the Mount MacGregor Railroad Company; thence along the land of the Grant cottage one hundred thirty-one feet to an iron stake in the corner of the Grant cottage lot; thence south sixty-seven feet to an iron stake; thence west along the lands of the said railroad company five hundred feet to the center of the highway leading to Artists lake. Bounded on the west by the highway, north by the highway, and on the east by the highway; the said lands being known

as the Arkell cottage lot. Subject to a right of way heretofore acquired by the Mount MacGregor Railroad Company across the lands first described."

On page 56: "For deficiency in the appropriation for salaries of the commissioners, deputies, secretary and division engineers during the fiscal year ending September thirtieth, nineteen hundred ten, five thousand dollars (\$5,000), or so much thereof as may be necessary, payable from the highway fund."

On page 77: "For the armory commission, for the construction of a boat house for the third separate division, naval militia, at Buffalo, twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary."

On page 79: "For lighting system on Green Island five thousand dollars (\$5,000); for water supply on Goat Island ten thousand dollars (\$10,000), or so much thereof as may be necessary."

On page 84: "For road roller, two thousand seven hundred fifty dollars (\$2,750), or so much thereof as may be necessary."

On page 84: "For clearing and reforesting state lands in the vicinity of Dannemora, two thousand five hundred dollars (\$2,500), or so much thereof as may be necessary."

On page 88: "For deficiency in the salaries of the two members of the board of parole for state prisons other than the superintendent of prisons, from July first, nineteen hundred ten, to September thirtieth, nineteen hundred ten, nine hundred dollars (\$900), or so much thereof as may be prescribed by law."

On page 97: "For the construction of an overhead foot bridge over the Erie canal at a point in the vicinity of the electric light works, west of Railroad street, in the village of Ilion, the sum of two thousand dollars (\$2,000), or so much thereof as may be necessary."

On pages 121 and 122: "For removing cupola and restoring roof of mansion to its original shape, three hundred fifty dollars (\$350), or so much thereof as may be necessary; for repairing and restoring old stone fort to its original condition, as near as can be done, three hundred dollars (\$300), or so

much thereof as may be necessary; for building line fences between state property and lands of adjoining owners, three hundred dollars (\$300), or so much thereof as may be necessary;

"For removing wing on north side of mansion and restoring side of mansion to original condition, and building caretaker's cottage, three thousand five hundred dollars (\$3,500), or so much thereof as may be necessary."

On page 123: "For draining swamp near Suspension Bridge and pond, five hundred dollars (\$500), or so much thereof as may be necessary."

On page 125: "For Hobart Krum, Daniel D. Frisbie, J. Edward Young, W. E. Bassler, Dow Beekman, Charles W. Vroman and Henry F. Kingsley, committee for suitably marking the sites of the upper and middle forts in the Schoharie valley, in the towns of Fulton and Middleburgh, to mark and preserve the places where the patriots of the revolution held in check the British and Indians, five thousand dollars (\$5,000), or so much thereof as may be necessary, to be paid by the treasurer on the audit and approval by the comptroller."

On page 130: "For the Saint Lawrence State Hospital, to purchase the William J. Morrison farm, consisting of about two hundred and eight acres, at fifty dollars per acre, in accordance with an option contained in the lease of said farm now held by said hospital, ten thousand five hundred dollars (\$10,500), or so much thereof as may be necessary."

On page 130: "For the Buffalo State Hospital, to purchase the L. A. Dwight farm, consisting of about thirty-three acres in the town of Wilson, in the county of Niagara and state of New York, pursuant to option and now held under lease by said hospital for the accommodation of its patients, the sum of six thousand five hundred dollars (\$6,500), or so much thereof as may be necessary."

On page 130: "For the Binghamton State Hospital, to purchase two hundred and fifty acres of land adjoining the present hospital property, and known as a part of the Mathew Hays farm, pursuant to option and now held under lease by said hospital, the sum of seven thousand dollars (\$7,000), or so much thereof as may be necessary."

The funds in the treasury, and our estimated income, will not permit these expenditures.

On page 42: "For deficiency in the appropriation for cities, academies, academic departments and libraries, seventy-five thousand dollars (\$75,000), or so much thereof as may be necessary, to apportion an additional one-half cent per day for the attendance of academic pupils in academic departments of cities, union schools and academies as shown by their annual reports for the school year ending July thirty-first, nineteen hundred nine."

This is disapproved for the reasons stated in passing upon a similar item last year, as follows:

"The appropriation with regard to which the 'deficiency' referred to in this item exists, provides for certain fixed apportionments after which the remainder of the appropriation is to be divided among schools and academies on the basis of attendance of academic pupils. These fixed apportionments have been made and for a number of years the surplus was sufficient to pay two cents per day on the basis of such attendance. But last year the surplus was sufficient to pay only one and one-half cents a day. The difference is the alleged 'deficiency.' But it is manifest that there is no real deficiency. For the State assumed no obligation in the matter, but simply made provision for a division of whatever surplus might remain after the required apportionments were made. It is not proper policy that where a convenient arrangement is thus made for the distribution of a possible surplus, this should be regarded as creating a State obligation so that the State is bound to make good a so-called 'deficiency' when the surplus falls off."

On page 47: "For deficiency in the compensation of state superintendents of elections, fifteen thousand dollars (\$15,000), or so much thereof as may be necessary, to be available on or after October first, nineteen hundred ten."

This item is improperly worded and cannot be allowed.

On page 49: "For the salary of a supervisor of farms, eight hundred seventy-five dollars (\$875), or so much thereof as may be necessary."

This item is disallowed, as the bill to which it refers has not been approved.

On pages 52 and 53: "For the land-purchase board as originally defined by chapter ninety-four of the laws of nineteen hundred one, and the several acts amendatory thereof and supplemental thereto, including the statutory consolidation law, there is hereby appropriated the sum of one hundred thousand dollars (\$100,000) for the purchase of lands within the Adirondack park."

In addition to the amounts reappropriated by this bill, provision was made last year for the issue of bonds to the amount of two hundred thousand dollars for additional forest purchases. These bonds have not yet been issued and the amount is still available. This item cannot be allowed.

On page 56: "For traveling expenses, one thousand dollars (\$1,000), or so much thereof as may be necessary."

On page 56: "For the salary of a field archivist, one thousand five hundred dollars (\$1,500), or so much thereof as may be necessary."

These items need not be allowed, as the bill to which they refer failed of passage.

On page 58: "The sum of ten thousand dollars (\$10,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated for the purpose of establishing and maintaining an experimental fish station in the vicinity of Buffalo, under the direction of the director of the State Cancer Laboratory, with the co-operation of the state fish culturist, the expenditures for which shall be verified by the director of said laboratory and approved by the state forest, fish and game commissioner."

The appropriation for the cancer laboratory has been largely increased this year, thirty thousand dollars being provided by the Appropriation bill and nine thousand dollars by another item in the Supply bill. The item above quoted, under present conditions, cannot be allowed. This does not mean that experimentation along the line desired may not be advisable; but if so, it would seem that arrangement could readily be made for it in connection with one of the fish hatch-

eries of the State instead of providing for the establishment and maintenance of a new station.

On page 59: "The sum of one hundred seventy-five thousand dollars (\$175,000) required to meet an estimated deficiency in the funds provided by chapter four hundred thirty-two of the laws of nineteen hundred nine for the maintenance of the thirteen state hospitals for the year beginning October first, nineteen hundred nine, is hereby appropriated, to be expended under the provisions of the insanity law."

A special bill carrying \$1,200,000 has been signed to take care of the deficiency in the maintenance of our hospitals for the insane, and the items for maintenance in the Appropriation bill (available October next) have been largely increased. This additional item cannot be allowed.

On pages 77 and 78: "For clerical services and expenses in connection with disbursement of refund by United States to volunteers Spanish war, one thousand five hundred dollars (\$1,500), or so much thereof as may be necessary."

On page 78: "For travel, expense and subsistence of officers designated as delegates to the annual convention of the National Guard Association of the United States to be held at Saint Louis, Missouri, during the year nineteen hundred ten, one thousand dollars (\$1,000), or so much thereof as may be necessary."

On page 104: "For repairing existing state weights and measures, and for the expenses of sending the same to the national bureau of standards for comparison and correction, and returning the same, including packing and transportation, one thousand dollars (\$1,000), or so much thereof as may be necessary."

Such expenses as may be proper for the purposes stated may be otherwise provided for.

On page 78: "For the payment in full of creditors of Andrew Douglas for material furnished in the construction of the State Armory at Whitehall, the sum of fourteen hundred and sixty-seven dollars and forty-seven cents (\$1,467.47), or so much thereof as may be necessary."

It does not appear that there is any obligation on the part of the State to make this payment.

On page 83: "For rent of office and office expenses, five hundred dollars (\$500), or so much thereof as may be necessary; .

"For traveling expenses of the secretary and pricing committee, one thousand dollars (\$1,000), or so much thereof as may be necessary."

These items are unnecessary.

On page 89: "For repairing and renewing the roofs, gutters and conductor pipes of the capitol and for all incidental expenses in connection therewith, to be expended in the discretion of the superintendent of public buildings, one thousand dollars (\$1,000), or so much thereof as may be necessary."

On page 89: "For the repair, renewal and improvement of parts of the elevators in the capital and all expenses incidental thereto, to be expended in the discretion of the superintendent of public buildings, one thousand dollars (\$1,000), or so much thereof as may be necessary."

On page 90: "For increasing the capacity and improving the character of the system of ventilation in the senate chamber and adjoining rooms, corridors and lobbies, to be expended in the discretion of the superintendent of public buildings, one thousand five hundred dollars (\$1,500), or so much thereof as may be necessary."

On page 91: "For completing the cleaning and restoring of the western staircase in the capitol between the fourth and ground floor levels, and for completing the cleaning and restoring of the stone work of the senate and assembly chambers and the lobbies and rooms connected therewith and of other portions of the interior of the capitol, to be expended in the discretion of the superintendent of public buildings, the sum of five thousand dollars (\$5,000), or so much thereof as may be necessary."

On page 91: "For renewing, refinishing and redecorating the public corridors, lobbies and other spaces in the capitol totaling approximately one hundred and seventy-two thousand square feet, and for refinishing the iron sash and the doors, transoms and wood work in connection with such spaces and for other necessary repairs, restorations and improvements

incidental thereto, to be expended in the discretion of the superintendent of public buildings, nine thousand five hundred dollars (\$9,500), or so much thereof as may be necessary."

On page 92: "For repairing, renewing, resetting, et cetera, the tiling in the capitol, where necessary, the sum of two thousand dollars (\$2,000), or so much thereof as may be necessary."

On page 92: "For renewals, repairs and improvements of the plumbing and drainage systems of the public buildings and of the fixtures and appliances connected therewith, to be expended in the discretion of the superintendent of public buildings, two thousand five hundred dollars (\$2,500), or so much thereof as may be necessary."

Such repairs as may be essential may be made out of the contingent fund carried by the Appropriation bill.

On page 94: "For the superintendent of public works, for the purpose of extending the dyke along the east bank of the Chemung river on the lands of Silas Gorton, in the town of Corning, in the county of Steuben, so as to discontinue and prevent the overflow of said lands, the sum of five thousand dollars (\$5,000), or so much thereof as may be necessary."

On page 97: "For the superintendent of public works, for the cleaning out of Cayuga and Bergholz creeks in the county of Niagara, the sum of ten thousand dollars (\$10,000), or so much thereof as may be necessary."

On page 97: "To the superintendent of public works, for the purpose of removing obstructions from the outlets of Round lake and Ballston lake in the county of Saratoga, three thousand dollars (\$3,000), or so much thereof as may be necessary."

It does not satisfactorily appear that there is any obligation on the part of the State to make these improvements. If either of the cases fall within the River Improvement Act, proceeding may be taken under its provisions.

On page 95: "For the salary and necessary traveling expenses of an engineer to be employed by the superintendent of public works to act in an advisory capacity, five thousand dollars (\$5,000), or so much thereof as may be necessary, to be paid from moneys received from the sale of bonds, pursuant

to chapter one hundred forty-seven, laws of nineteen hundred three."

This item is not needed.

On page 99: "For the construction of a steel bridge over the Oneida river at Three River Point, to take the place of the bridge removed in the work of constructing the barge canal, thirty-five thousand dollars (\$35,000), or so much thereof as may be necessary."

If the State is under any obligation to build this bridge, the matter should be dealt with by the proper authorities under the law relating to the construction of the barge canal.

On page 99: "To reimburse Frederick Skene, for his expenses in defending the suit of the Malone, Fort Covington and Hopkins Point Railroad Company, plaintiffs, against the Spuyten Duyvil Construction Company, Frederick Skene and others, tried in Malone, November seventeenth, eighteenth and nineteenth, nineteen hundred nine, decision handed down December fifteenth, nineteen hundred nine, the sum of one thousand five hundred dollars (\$1,500), payable upon a certified statement of such expenses to be audited by the attorney-general."

This litigation I am advised has not yet been terminated.

On page 100: "For the abolition of grade crossings within the jurisdiction of the public service commission, second district, pursuant to chapter seven hundred fifty-four of the laws of eighteen hundred ninety-seven and acts amendatory thereof, the further sum of one hundred fifty thousand dollars (\$150,000), or so much thereof as may be necessary."

The sum of two hundred and fifty thousand dollars has been allowed for the elimination of grade crossings in Queens and Richmond counties, and an additional sum of three hundred and fifty thousand dollars with respect to grade crossings in other parts of the State, making a total of six hundred thousand dollars for this purpose. Important as is this work, a further appropriation cannot be allowed at this time.

On page 103: "For continuing the work of collecting data of rainfall and stream gaging in co-operation with the United States Geological Survey, fifteen thousand dollars (\$15,000), or so much thereof as may be necessary."

For such work as can be authorized at this time, appropriation is otherwise made.

On page 114: "For the purpose of refunding taxes erroneously paid into the treasury of the state by the Buffalo, Lake Erie and Niagara Railroad Company, under section one hundred eighty of article nine of the general tax law, the sum of two thousand dollars (\$2,000), or so much thereof as may be necessary."

On page 114: "For the purpose of refunding taxes erroneously paid into the treasury of the state by the Niagara Transfer Railway Company, under section one hundred eighty of article nine of the general tax law, the sum of five hundred dollars (\$500), or so much thereof as may be necessary."

On page 114: "For the purpose of refunding an incorporation tax erroneously paid into the treasury of the state by John A. Barhite, as receiver of the Niagara Falls and Rochester Railway Company, under section one hundred eighty of article nine of the general tax law, the sum of six hundred twenty-five dollars (\$625), or so much thereof as may be necessary."

If it is to be the policy to make refunds in such cases as those presented by these items, provision should be made therefor by the general law.

On page 114: "For J. A. Clark for document files and typewriter supplies, one hundred twenty-two dollars and fifteen cents (\$122.15), or so much thereof as may be necessary, same to be paid on certificate of the attorney-general."

On pages 129 and 130: "To Jastrow Alexander, for moneys expended by him to cover deficiencies in office expenditures during his incumbency as state inspector of gas meters in the months of May and June, nineteen hundred seven, three hundred forty-two dollars and seventy-two cents (\$342.72), or so much thereof as may be necessary, upon vouchers approved by the comptroller."

It does not satisfactorily appear that there is any obligation on the part of the State to make these payments.

On page 120: "For William A. Maxon, for typewriting, disbursements and services, cataloguing and indexing legislative documents for senate library, one thousand three hundred

dollars (\$1,300), or so much thereof as may be necessary, payable on the certificate of the clerk of the senate, upon the delivery of such catalogue and index to the senate library."

On page 127: "For the commission to inquire into inferior criminal courts in cities of the first class, appointed pursuant to chapter two hundred eleven of the laws of nineteen hundred eight, the sum of six thousand dollars (\$6,000), or so much thereof as may be necessary, payable on the approval of the chairman of the commission and the audit of the comptroller."

On page 132: "For the payment of the expenses incurred by the joint committee of the senate and assembly to examine into the question of extending the jurisdiction of the public service commission to telephone companies and telegraph companies, as provided by joint resolution from the assembly, passed by the senate April twenty-ninth, nineteen hundred nine, twenty-seven thousand dollars (\$27,000), or so much thereof as may be necessary, to be paid by the treasurer upon the warrant of the comptroller and the certificate of the chairman and vice-chairman of the committee."

The appropriation allowed by this bill for legislative expenses, including the expenses of legislative committees, is deemed to be sufficient to cover the amounts payable for services and expenses described in these items.

On page 125: "For the state's one-half of the expense incurred in the condemnation and acquirement of toll bridges, pursuant to and to be paid as provided by chapter one hundred forty-six of the laws of nineteen hundred nine, and of any act or acts amendatory thereof and supplemental thereto, the sum of seventy-five thousand dollars (\$75,000)."

This appropriation it appears is very largely in excess of the amount which may be needed to meet the demands of pending proceedings.

On page 126: "For the county treasurer of the county of Steuben, to reimburse that county for expenses incurred in criminal proceedings arising from murder trials in which Daniel McSweeney, Cornelius Sullivan, Hugh Edwards, Edward Pollard and Edward McIntyre, inmates of the New York State Soldiers' and Sailors' Home, were defendants, the sum

of two thousand eighty-seven dollars forty-seven cents (\$2,087.47), or so much thereof as may be necessary, to be paid to said county treasurer and audited by the comptroller upon the certificate of the district attorney of Steuben county."

It does not appear that there is any obligation on the part of the State to make this payment.

On page 128: "For the trustees of school district number three, towns of Hyde Park and Poughkeepsie, New York, for the unpaid taxes against the lands of the Hudson River State Hospital for the year nineteen hundred seven—nineteen hundred eight, as provided by chapter three hundred fifteen, laws of nineteen hundred seven, the sum of four hundred thirty-eight dollars and forty-two cents (\$438.42), or so much thereof as may be necessary."

I am advised that another item of appropriation which has been allowed covers the amount properly payable for the purpose above stated.

On page 129: "For Lewis E. Griffith, for counsel fees and expenses necessarily incurred by him in connection with certain charges of irregularities on the part of the superintendent of state prisons in the adoption of plan for the new state prison at Bear Mountain, which charges were referred by the governor to Chester A. Alden for investigation, the sum of two thousand five hundred dollars (\$2,500), or so much thereof as may be necessary, which shall be payable on the audit and certificate of the attorney-general."

This item is improperly worded and would not be effective if allowed.

On page 131: "For Warren Butterfield for services and disbursements as enrolling officer in making the enrollment of persons liable to military duty in Company L, thirty-third regiment, New York state militia, in the towns of Canton and Pierrepont, county of Saint Lawrence, in the year eighteen hundred sixty-four, pursuant to official designation and appointment, the sum of four hundred fifty-two dollars and fifty-four cents (\$452.54)."

It does not appear that this claim can properly be allowed (Constitution, article 7, section 6).

CHARLES E. HUGHES.

**Conflicting with the Constitutional Provision that the
Legislature Shall Not Pass a Private or Local Bill
Granting to Any Association Exemption from Taxation**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 8, 1910.

Memorandum filed with bills specified below.

NOT APPROVED.

The following bills conflict with the provision of the Constitution that the Legislature shall not pass a private or local bill "granting to any person, association, firm or corporation, an exemption from taxation on real or personal property," and therefore are disapproved:

Assembly Bill Introductory No. 1507, Printed No. 2460, entitled "An act to incorporate Arnot Art Gallery."

Assembly Bill Introductory No. 458, Printed No. 795, entitled "An act to incorporate The Providence Hospital."

Senate Bill Introductory No. 1137, Printed No. 1526, entitled "An act to give the American Museum of Safety a charter of incorporation."

(Signed) CHARLES E. HUGHES.

Amending the Election Law in Relation to the Enrollment of Party Voters

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 8, 1910.

Memorandum filed with Assembly Bill Introductory No. 709, Printed No. 2552, entitled "An act to amend the election law, in relation to the enrollment of party voters, nominations, primaries, conventions and party committees, and repealing certain sections relating thereto."

NOT APPROVED.

This bill is disapproved for the reasons stated in the message sent by me to the Legislature on the twenty-sixth day of May, 1910, as follows:

"The bill * * * is not a grant but a denial of needed primary reform.

"It provides for State-wide enrollment; but it gives to the enrolled voter, who does not make politics his vocation, scant opportunity for effective participation in the decisions of his party:

"It provides for an official primary ballot; but its provision is of a sort to facilitate domination by party managers and thus to protect the plans and purposes of those who seek, through the control of the nomination of party candidates, to make the administration of government serve the interests of themselves and their allies.

"This measure is in the interest of the system which experience condemns and fails to give promise of relief from methods which have caused widespread and constantly increasing protest. Its good provisions are offset by those that are bad. Instead of putting party managers under suitable check and giving to the party voters the decisive voice, it places the party voters in the virtual control of the party managers.

"The test is found in the situation of the enrolled voters on primary day. Under this bill what can the enrolled voter do with the elaborate machinery that is provided for the primary? Can he express his choice as to a single candidate of his party for public office? Not one. Can he say whom he desires to be the party candidate for a State office, or for election to Congress, to the State Senate or Assembly, or even to any of the offices within his own county? Not at all. He is invited to participate in the selection of a host of delegates about whom, in ordinary case, he will know nothing, and of whose choice of candidates he has no satisfactory assurance.

"Upon the official ballot he will find:

"Delegates to state convention, delegates to congressional convention, delegates to judicial district convention, delegates

to senatorial district convention, delegates to county convention, delegates to assembly district convention, delegates to city convention, delegates to any other convention in 'such order as the custodian of primary records shall determine' in addition to members of committees.

"The voter's rights, with all this complicated mechanism ostensibly for his protection, come to the selection of those intermediaries who, as experience shows, are generally the mere counters of political leaders.

"The matter is made worse by the arrangement of the ballot. The bill provides for a division of the ballot into columns so that the delegates to the various conventions, proposed by the organization, shall be found in one column at the extreme left and may be voted for by a single mark in a circle at the top of the column. Their rivals for selection as delegates are to be placed in other columns with similar provisions for straight voting.

"This is designed to facilitate straight voting and, coupled with the use of the delegate system, to ensure control by the party managers of the nomination of candidates for public office. The voters are not only debarred from directly expressing their wishes as to particular candidates for nomination to public office, but even as to the choice of delegates the machinery is contrived against them in the interest of the party managers. Contests under this plan are likely to be more with respect to party leaders, with all the powers which is ensured to them, than with respect to candidates for public office. This puts a premium upon factional strife and the play of selfish interest, instead of giving freer course to intelligent and independent opinion within the party.

"It is further provided that 'the name of a person shall not appear more than once on the ballot as a candidate for the same party position,' so that even if the delegates for one convention, proposed by the organization, are satisfactory, they cannot be included in another column, and the very fact that they are desirable makes more difficult the opposition to delegates proposed for other conventions. Whatever may be the propriety of such a restriction with respect to a properly

arranged ballot, it is manifestly indefensible in connection with a ballot of the sort proposed by this bill.

"I shall not attempt to enter into a consideration of the minor imperfections of the bill * * *, as in my judgment it is structurally unsound and should not be treated as a proper measure of reform.

"I desire again to direct the attention of your honorable body to the gravity of the questions involved and to express the hope that before adjournment you will provide for a suitable measure for the correction of primary abuses and thus respond to what I believe to be a just and urgent demand of the people of the State."

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the New York Agricultural Experiment Station

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Senate Bill No. 1326, entitled "An act to purchase land and provide a building at the New York agricultural experiment station, and making an appropriation therefor."

NOT APPROVED.

The condition of the State treasury will not permit this expenditure at this time.

(Signed) CHARLES E. HUGHES.

Making Appropriations to Carry Out the Law Relating to Pure Foods and for Demonstration Work in Relation to Milk Production

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with the bills mentioned below.

Assembly Bill No. 1883, entitled "An act making an appropriation to enforce and carry out the provisions of the agricultural law relating to pure foods and dairy products."

Senate Bill No. 419, entitled "An act making an appropriation for demonstration work in relation to milk production."

NOT APPROVED.

The appropriations for the Department of Agriculture, and for agricultural education and extension work, cover as much money as can at this time be allowed for the purposes described in these bills.

(Signed) CHARLES E. HUGHES.

Directing the Superintendent of Public Works to Remove Gravel and Sand from the Bed of Wood Creek

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 1776, entitled "An act empowering and directing the superintendent of public works to remove the obstruction, gravel, sand, et cetera, from the bed of Wood creek from its source in the town of Argyle to where it empties into the Barge canal north of Dunhams basin in the town of Kingsbury, Washington county, New York."

NOT APPROVED.

I am advised that certain portions of Wood creek are being improved in connection with Barge canal construction work, and that the improvements suggested by this bill should await a determination of the question as to the extent of the benefits to result from that work.

The bill is therefore disapproved.

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the Enlargement of the Fish Hatchery at Bemus Point

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 2124, entitled "An act to enlarge the fish hatchery at Bemus Point on Chautauqua lake, Chautauqua county, for the propagation of fish, and making an appropriation therefor."

NOT APPROVED.

The appropriations otherwise made cover as much money as can be allowed at this time in connection with fish hatcheries.

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the Purchase of the House Owned and Occupied by General Nicholas Herkimer

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 418, entitled "An act to provide for the acquisition and preservation of the historic house and grounds formerly owned and occupied by General Nicholas Herkimer, in the town of Danube, in the county of Herkimer, and making an appropriation therefor."

NOT APPROVED.

It is most desirable that the memorials of the State should be preserved, and the disposition of public-spirited citizens to provide for their acquisition by the State should be encouraged.

I regret that the state of the treasury will not permit the approval of this bill.

(Signed) CHARLES E. HUGHES.

Making Appropriations for Certain Normal Schools and the Normal College

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with the bills specified below.

Senate Bill No. 185, entitled "An act to provide for the acquisition by the state of certain land in the village of Fredonia for normal school purposes, and making an appropriation therefor."

Assembly Bill No. 1663, entitled "An act providing for the reconstruction of the old portion of the Potsdam State Normal and Training School, and making an appropriation therefor."

Senate Bill No. 362, entitled "An act to provide for the acquisition of additional lands for the New York State Normal College at Albany, and making an appropriation therefor."

NOT APPROVED.

We have under construction a new normal school building at Oswego, for which an appropriation of \$200,000 has been made this year.

A serious situation of the most exigent character exists with respect to the normal school at Buffalo. Temporary provision has been made by the supply bill, and another bill has been signed for the suitable construction of a new building.

Further appropriations cannot be allowed at this time.

(Signed) CHARLES E. HUGHES.

Making Appropriations for Certain Armories

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with the bills specified below.

Assembly Bill No. 41, entitled "An act providing for the erection of a new state armory at Malone, New York, the acquisition of a site for the same, and making an appropriation therefor, and providing for the sale of the old armory site and building, and the application of the proceeds to such new building, and for other purposes relative to the same.

Assembly Bill No. 7, entitled "An act to provide for the erection of a new armory building in the city of Mount Vernon, New York, the acquisition of a site for the same, and making an appropriation therefor, and providing for the sale of the old armory site and buildings, and the application of the proceeds to such new building and for other purposes relative to the same."

Assembly Bill No. 1300, entitled "An act to provide for repairs, improvements and betterments to the state armory, in the borough of Brooklyn in the city of New York, occupied by the Forty-seventh Regiment, National Guard, State of New York, and making an appropriation therefor."

Senate Bill No. 18, entitled "An act providing for the erection of a state armory and stable in the city of Albany, the acquisition of a site therefor, and making an appropriation for building said armory and stable."

Senate Bill No. 16, entitled "An act to provide for the erection of a new armory building in the city of Newburgh, New York, the acquisition of a site for the same, and making an appropriation therefor; and providing for the sale of the old armory site and building and the application of the proceeds to such new building, and for other purposes relative to the same."

Assembly Bill No. 88, entitled "An act to provide for the rebuilding, alteration and improvement of the state armory

in the city of Olean, the disposition of the old armory building, and making an appropriation therefor."

Assembly Bill No. 620, entitled "An act to provide for the purchase of additional lands for the armory of the Thirty-fourth Separate Company of the National Guard at the city of Geneva, and making an appropriation therefor."

NOT APPROVED.

The funds in the treasury and our estimated income will not permit these expenditures.

(Signed) CHARLES E. HUGHES.

**Making an Appropriation for Dredging and Improving
the West Canada Creek at Herkimer**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Senate Bill No. 1318, entitled "An act making an appropriation for dredging and otherwise improving the West Canada creek at Herkimer, in the county of Herkimer."

NOT APPROVED.

This bill is intended to provide for the relief of conditions which caused a serious flood at Herkimer last spring. But in determining whether this appropriation should be made, the questions relating to the obligations of the State and the effect of the proposed improvement must be considered.

I am advised that the construction of the Barge canal from Herkimer east under the present plans cannot be regarded as affecting flood conditions at Herkimer.

I am also advised that the contemplated changes would not give assurance of permanent relief, but that there would be danger of the filling up of the improved channel and the creation

of new flood conditions. It is not at all unlikely that the only permanent result of the action taken under this bill if approved would be to subject the State to liability for damages occasioned by floods occurring after the State had intervened.

On the other hand it appears that the dam at Hinckley will control and regulate by far the greater part of the water shed of the West Canada creek, and thus through the completion of that construction, real relief will be afforded.

It must also be taken into consideration that the general law relating to the improvement of streams provides for suitable investigation as to the existence of dangerous conditions and the best available means for protecting the public safety. In proceedings under this law the cost of the improvement is distributed so that the localities and individuals affected shall bear their proper share of the expense, and the amount may also be ascertained which can justly be considered a State charge. In this way the entire matter could be properly examined and an equitable disposition could be made of it, after careful inquiry. Solicitous as all should be for the welfare of the people of Herkimer, it is also important that the interests of the State as such should be adequately safeguarded.

While the present case makes a serious appeal because of the recent disaster, what I have said with regard to certain bills making appropriations for other streams is applicable here, and the State should execute its policy in an impartial manner, dealing alike with all communities.

Upon the facts presented to me, and in view of the advice that I have received from the Department of Public Works, I should not be justified in approving this bill.

(Signed) CHARLES E. HUGHES.

**Amending the State Charities Law in Relation to the
Regulation of State Charitable Institutions—Appointment of a Purchasing Agent**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 2474, entitled "An act to amend the state charities law, in relation to the regulation of state charitable institutions."

NOT APPROVED.

The purpose of this act is most commendable and were it not for the demands upon our resources at this time I should be disposed to approve it. Among other things it provides for the appointment by the Fiscal Supervisor of a purchasing agent, who is to be secretary of the Purchasing Committee, a supervisor of farms and a supervisor of foods.

If we could have a suitable co-ordination of the work of all our institutions, such as hospitals for the insane, charitable institutions and prisons, through a representative board which should exercise supervision over matters of common interest and through which arrangement could be made for common inspection and supervision of farms, foods, supplies, et cetera, it would result, I believe, in great benefit to the State. It is likely that some portion of this benefit would be received by providing additional facilities for supervising the work of the charitable institutions alone, but under the present circumstances I do not feel justified in allowing appropriations for the additional positions created by this bill and for this reason it is disapproved.

(Signed) CHARLES E. HUGHES.

Providing for the Rebuilding of a Bridge Across South Bay in the County of Washington

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 1709 (Senate reprint No. 1616), entitled "An act to provide for the rebuilding of a bridge across South bay in the county of Washington and making an appropriation therefor."

NOT APPROVED.

This bill authorizes the State Highway Commission to rebuild a bridge across South bay and appropriates for this purpose seventy-five thousand dollars out of the proceeds of moneys realized from the sale of highway improvement bonds. Section 250 of the Highway Law provides:

"§ 250. When town or county expense. The towns of this state, except as otherwise herein provided, shall be liable to pay the expenses for the construction and repair of its public free bridges constructed over streams or other waters within their bounds, and their just and equitable share of such expenses when so constructed over streams or other waters upon their boundaries, except between the counties of Westchester and New York; and when such bridges are constructed over streams or other waters forming the boundary line of towns, either in the same or adjoining counties, such towns shall be jointly liable to pay such expenses. When such bridges are constructed over streams or other waters forming the boundary line between a city of the third class and a town, such city and town shall be liable each to pay its just and equitable share of the expenses for the construction, maintenance and repair of such bridges. Except as otherwise provided by law, a city of the third class shall be deemed a town for the purposes of this article. Each of the counties of this state shall also be liable to pay for the construction, care, maintenance, preservation and repair of public bridges, lawfully constructed over streams or other waters forming its boundary line, not less than one-sixth part of the expenses of such construction, care, maintenance, preservation and repair."

If it is to be the policy of the State to construct bridges at State expense in connection with, and out of funds provided for, highway improvement, this policy should be defined by suitable amendment of the law so that it may be impartially applicable to all cases of the same class. This bill if signed would probably have a numerous progeny of special acts involving inequality and injustice.

(Signed) CHARLES E. HUGHES.

Establishing a Law Library in the Second Judicial District

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 2297, entitled "An act to amend the education law, relative to establishing a law library in the second judicial district."

NOT APPROVED.

This bill provides that the proposed library shall be under the care and management of a board of trustees, which board shall consist of the board of managers of the Queens County Bar Association as they shall be elected from time to time. No suitable provision is made for the appointment of the trustees of the library to public authority, but the board of estimate and apportionment of the city of New York is required, by mandatory provision, to pay the expenses incurred for stated purposes that are certified to it by these trustees. It is provided that the librarian shall be appointed by the trustees, and the board of estimate and apportionment of the city of New York is required to pay his salary at the amount at which the trustees fix it.

It may be very desirable that there should be a library established in the Second Judicial District, and there is no disposition to criticise the intent of those who are desirous to bring this

about. But it is clear that the disbursement of public moneys should not be made mandatory upon the requisition of trustees who are not suitably accountable to public authority.

(Signed) CHARLES E. HUGHES.

Making Additional Appropriations for the New York State Training School for Boys

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Senate Bill No. 1384, entitled "An act making additional appropriations for the New York State Training School for Boys."

NOT APPROVED.

I have approved Senate Bill No. 1510, which appropriates \$117,000 toward the carrying out of the plans for this institution. This permits contracts to be made and important preliminary work to be done this year.

No further appropriations can be allowed at this time.

(Signed) CHARLES E. HUGHES.

Making an Appropriation to Provide a Survey and Plans for the Acquisition of Harbor Terminals by the State in the Port of New York by the Construction of an Artificial Waterway Between Flushing and Jamaica Bays

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 1499 (Senate reprint No. 1654), entitled "An act to provide a survey and plans for the acquisition of harbor terminals by the state in the port of New York, by the construction of an artificial waterway between Flushing and Jamaica bays, and providing an appropriation therefor."

It does not appear that this appropriation is needed at this time. There will be abundant opportunity hereafter in the light of the progress of the plans for the improvement of Jamaica Bay to determine whether or not the State shall make any outlays in this matter. An additional appropriation of \$10,000 has already been made to provide for the work of the commission created to examine the question of terminal facilities for the canals of the State.

(Signed) CHARLES E. HUGHES.

Making Appropriations for Schools of Agriculture, a School of Sanitary Science, a State College of Forestry and an Agricultural Experiment Station

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with the bills specified below:

Assembly Bill No. 2427, entitled "An act to amend the education law, in relation to the establishment of a state school of agriculture on Long Island, providing for its management and control, and making an appropriation therefor."

Assembly Bill No. 1848, entitled "An act to establish a state school of agriculture at Cobleskill, Schoharie county, and making an appropriation therefor."

Assembly Bill No. 136, entitled "An act providing for the establishment of a state school of agriculture and domestic science and kindred subjects at Delhi, Delaware county, and making an appropriation therefor."

Assembly Bill No. 785, entitled "An act providing for the establishment of a state school of agriculture and domestic science and kindred subjects at Bainbridge, Chenango county, and making an appropriation therefor."

Assembly Bill No. 1214, entitled "An act providing for the establishment of a state school of agriculture and domestic science and kindred subjects at Middletown, Orange county, and making an appropriation therefor."

Assembly Bill No. 2580, entitled "An act to amend the education law, in relation to the establishment of a state school of sanitary science and public health at Cornell University, and making an appropriation therefor."

Senate Bill No. 1502, entitled "An act to establish a state college of forestry at Syracuse University, and making an appropriation therefor."

Assembly Bill No. 2356, entitled "An act to amend the agricultural law, in relation to the establishment of an agricultural experiment station in Niagara county."

NOT APPROVED.

We have not the money to undertake the establishment of these schools. The wise policy, it seems to me, is to provide for the suitable development and completion of the schools that we have before we establish new and separate foundations.

With respect to agricultural schools, we have the State College of Agriculture at Cornell University, and secondary schools at Alfred University in Allegany county, at St. Lawrence University in St. Lawrence county, and at Morrisville in Madison county. The establishment of these secondary schools has led to the most importunate demands on the part of other communities, and the present bills will doubtless be followed by others in large number. Each community advances its claims with an intensity of local pride and interest that is most commendable.

Last winter, I am advised, a resolution was adopted by the State Agricultural Society to the effect that it would be best not to establish more special agricultural schools at this time, but to await results from those already established and start agricultural courses in high schools. Whether or not this may be regarded as the general opinion, it would seem clear that the work in the three secondary schools is still experimental.

There can be no question as to the desirability of providing throughout the State abundant opportunities for vocational training and especially for educational work along agricultural lines. But the best course to be taken to achieve the end is not so

clear at this time that we would be justified in multiplying separate agricultural schools.

And certainly it would be necessary to have a large increase in our State revenues before we could enter upon the undertakings contemplated by the present bills. This is true also of the bills providing respectively for the establishment of a State School of Sanitary Science and Public Health at Cornell University, and of a State College of Forestry at Syracuse University, and of an Agricultural Experiment Station in Niagara county.

(Signed) CHARLES E. HUGHES.

Making an Appropriation to Reimburse the Town of Rye for Moneys Paid the State for a Grant Made by the Commissioners of the Land Office to Said Town of Certain Lands Under Water

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 2606, entitled "An act making an appropriation to reimburse the town of Rye, in the county of Westchester, for moneys paid to the state for a grant made by the commissioners of the land office to said town of certain lands under water."

NOT APPROVED.

The town of Rye complains of the exaction by the Commissioners of the Land Office of the amount stated in the bill as the consideration for a grant to the town of land under water in front of Rye Park. While there may be a difference of opinion as to the advisability of insisting upon a pecuniary consideration in a case like this, the Commissioners of the Land Office, the duly constituted authority to deal with the question, have passed upon it and it does not seem to me wise policy to reverse such decisions in special cases by legislative action.

(Signed) CHARLES E. HUGHES.

Making Appropriations for Construction, Additions and Improvements at the State Hospitals for the Insane

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 2039 (Senate reprint No. 1435), entitled "An act making appropriations for construction, additions and improvements at the state hospitals for the insane."

Statement of items of appropriations of money, contained in said bill, which are severally objected to, to wit:

On Pages 1 and 2, Under the Head of Utica State Hospital.

"for cold storage building and equipment, twenty-five thousand dollars (\$25,000); for extensions of hot water system, two thousand five hundred dollars (\$2,500)."

On Page 2, Under the Head of Willard State Hospital.

"For tuberculosis pavilion for men with equipment, twenty thousand dollars (\$20,000); for improvement to heating system, eleven thousand seven hundred fifty dollars (\$11,750); for sorting room at laundry, eight thousand seven hundred dollars (\$8,700); for cow barn, seven thousand dollars (\$7,000); for enlargement of six sink rooms, six thousand seven hundred twenty dollars (\$6,720);"

"for stone crusher, one thousand five hundred dollars (\$1,500);"

On Page 2, Under the Head of Hudson River State Hospital.

"For nurses' home at main building, sixty thousand dollars (\$60,000);"

"for addition for forty disturbed patients, twenty-eight thousand dollars (\$28,000); for finishing and furnishing third floor of Inwood for nurses, fifteen thousand dollars (\$15,000); for additional pavilions, reception hospital, sixteen patients, twelve thousand dollars (\$12,000); for extension of water line, eleven thousand dollars (\$11,000); for addition to steward's office, five thousand six hundred dollars (\$5,600); for staff laundry, five thousand dollars (\$5,000);"

On Pages 2 and 3.

“for electric truck, three thousand six hundred dollars (\$3,600);”

On Page 3.

“for club room and bowling alley for employees, three thousand dollars (\$3,000).”

On Page 3, Under the Head of Middletown State Homeopathic Hospital.

“for dining-room and kitchen building, sixty thousand dollars (\$60,000);”

“for finishing basement, women’s division, nurses’ home, five thousand dollars (\$5,000);”

“for piggery and slaughter house, two thousand dollars (\$2,000);”

On Page 3, Under the Head of Buffalo State Hospital.

“For refrigerating plant, nineteen thousand dollars (\$19,000); for tuberculosis pavilion, twenty-five men, fourteen thousand dollars (\$14,000); for verandas, men’s and women’s wards, seven thousand five hundred dollars (\$7,500); for building for contagious diseases, four thousand dollars (\$4,000);”

On Page 3, Under the Head of Binghamton State Hospital.

“For reconstruction of electric light system, sixty thousand dollars (\$60,000);”

On Pages 3 and 4.

“for finishing basement, south wing, nurses’ home, five thousand dollars (\$5,000);”

On Page 4.

“for motor truck for freight, three thousand six hundred dollars (\$3,600); for painting, one thousand dollars (\$1,000); for roads and walks, one thousand dollars (\$1,000).”

On Page 4, Under the Head of Saint Lawrence State Hospital.

“For building for employees, one wing, sixteen thousand dollars (\$16,000); for enlarging boiler house and constructing conduits to new dormitory, thirty-one thousand dollars (\$31,000); for carpenter and blacksmith shop, eight thousand dollars (\$8,000);”

On Page 4, Under the Head of Rochester State Hospital.

“For nurses’ home, sixty thousand dollars (\$60,000); for lake farm cottages, forty patients, twenty-five thousand dollars (\$25,000);”

“for building for contagious diseases, four thousand dollars (\$4,000); for veranda, chronic building, two thousand four hundred dollars (\$2,400);”

“for electric motor, carpenter shop, one thousand dollars (\$1,000).”

On Page 4, Under the Head of Gowanda State Homeopathic Hospital.

“For mortuary, eight thousand dollars (\$8,000);”

On Pages 4 and 5.

“for building for contagious diseases, four thousand dollars (\$4,000);”

On Page 5.

“for addition to kitchen, two thousand dollars (\$2,000);”

On Page 5, Under Head of Kings Park State Hospital.

“for amusement hall, thirty thousand dollars (\$30,000);”

“for flour storage building, eight thousand dollars (\$8,000);”

On Page 5, Under the Head of Manhattan State Hospital.

“for additional furniture, five thousand dollars (\$5,000); for power truck, two thousand eight hundred dollars (\$2,-

800) ; for additional kitchen equipment, two thousand dollars (\$2,000) ; for cement walks, one thousand dollars (\$1,000) ; for broken stone for roads, one thousand dollars (\$1,000) ; for medical library, one thousand dollars (\$1,000)."

On Page 6, Under the Head of Central Islip State Hospital.

" for enlargement of amusement hall, eight thousand dollars (\$8,000) ;"

" for cement walks, one thousand dollars (\$1,000)."

The items of this bill which have been approved allow for the completion of the important work of enlargement at the Manhattan, Kings Park and Central Islip hospitals, which was begun last year, in order to provide additional accommodations which are sorely needed.

These accommodations are intended to care for 1,400 patients.

Other necessary items are allowed for the other hospitals, and in addition appropriation is made for the general contingent fund, out of which emergent requirements may be met.

There is also a special bill appropriating \$100,000 for the amount to be expended this year on the new Mohansic Hospital at Yorktown.

We have also met this year the accumulated deficiency in maintenance of the hospitals for the insane by a special bill carrying \$1,231,000, and the appropriation bill allows in its maintenance items the ensuing fiscal year about \$700,000 more than the bill of last year.

The funds in the treasury, and our estimated income, will not permit me to approve the additional items, in the present bill, which are above set forth.

(Signed) CHARLES E. HUGHES.

**Making an Appropriation for the Improvement of a
Dike Across the Fourth Branch of the Mohawk River,
Between Cohoes and Green Island**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 681, entitled "An act to provide for the improvement and repair of the dike across the fourth branch of the Mohawk river, between the city of Cohoes and the village of Green Island, Albany county, New York, and making an appropriation therefor."

NOT APPROVED.

This dike, which is virtually a highway, is used by the street railway company for that portion of its line which lies between Cohoes and Green Island. The matter may be left to the Superintendent of Public Works to make proper arrangements for its repair.

(Signed) CHARLES E. HUGHES.

**Making an Appropriation to Provide for Changing and
Straightening the Channel of Starch Factory Creek
in the City of Utica**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 1411, entitled "An act to provide for changing and straightening the channel of Starch Factory creek, in the city of Utica, and for constructing a new concrete masonry culvert to carry said creek underneath and across Broad street in said city, at a new location, and making an appropriation therefor."

NOT APPROVED.

The condition of the treasury will not permit this expenditure to be made at this time.

(Signed) CHARLES E. HUGHES.

Providing for the Reconstruction of the Buildings of the Long Island State Hospital

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 16, entitled "An act providing for the reconstruction of the buildings of the Long Island State Hospital at Flatbush (Brooklyn), Long Island."

NOT APPROVED.

The ultimate disposition of this property is uncertain. The questions that relate to it should be settled, and the title of the State, if it is to continue to hold the property, should be placed upon a secure basis, before expenditures are made that are not absolutely required for occupancy meanwhile.

The repairs that are urgently needed may be provided for out of the contingent fund (\$250,000) which has been appropriated for the Commission in Lunacy.

In passing upon a bill for improvements for the hospitals for the insane I have called attention to the large amounts which we are expending this year in connection with these hospitals. A further appropriation as contemplated by this bill, in addition to the contingent fund already allowed, cannot in the circumstances be made.

(Signed) CHARLES E. HUGHES.

Making Appropriations for Certain Permanent Im- provements at Fire Island State Park

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 1542, entitled "An act making appropriations for certain permanent improvements at Fire Island State Park."

NOT APPROVED.

The supply bill carries as much as can be allowed for the purposes of the park at this time, and this bill cannot be approved.

(Signed) CHARLES E. HUGHES.

Making Additional Appropriations for Letchworth Village

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 1262, entitled "An act making additional appropriations for Letchworth Village."

Statement of items of appropriations of money, contained in said bill, which are severally objected to, to wit:

On page 1.

"1. For the power and heating plant and the equipment necessary at this time, seventy-five thousand dollars (\$75,000);"

"2. For a bakery, storehouse, and cold storage building, forty-five thousand dollars (\$45,000);"

"3. For a laundry and equipment necessary at this time, forty-five thousand dollars (\$45,000);"

On page 2.

"4. For a hospital and infirmary group of buildings, one hundred fifty thousand dollars (\$150,000);"

"5. For a bridge, ten thousand dollars (\$10,000);"

"8. For a nurses' home, fifteen thousand dollars (\$15,000);"

"9. For a pole line, electric conduits and transformers, five thousand dollars (\$5,000);"

"10. For steam conduits and piping, thirty thousand dollars (\$30,000);"

By special bill there has been appropriated the sum of \$179,000 toward the carrying out of the plans for this institution. In addition, the general appropriation and supply bills carry items for maintenance, equipment, etc., amounting to \$63,800.

Certain items of the present bill have also been approved to meet the urgent necessities of the present year.

No further appropriations can be allowed at this time.

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the Improvement of the Black River Canal

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 270, entitled "An act to provide for the improvement of the Black River canal, and for the repair and reconstruction of the structures thereof, between the northerly boundary of Boonville and Lyons Falls, and making an appropriation therefor."

NOT APPROVED.

The condition of the State treasury will not permit this expenditure to be made at this time.

(Signed) CHARLES E. HUGHES.

Making Appropriations for Various Local Improvements

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with the bills specified below:

Assembly Bill No. 167, entitled "An act to provide for dredging Powell creek in the county of Nassau, for widening and deepening the channel thereof, and making an appropriation therefor."

Assembly Bill No. 168, entitled "An act making an appropriation for dredging Mill creek and the Narrows to Long creek in certain portions of the town of Freeport, in the county of Nassau."

Assembly Bill No. 30, entitled "An act to provide for the construction of a dike or dikes for the protection of property adjacent to the Delaware river in the city of Port Jervis, by the completion of the work begun under chapter seven hundred and sixteen of the laws of nineteen hundred and four, the acquisition of lands necessary for such purpose, and making an appropriation therefor."

Assembly Bill No. 319, entitled "An act to provide for the completion of a dyke or dykes for the protection of property adjacent to the Delaware river in the town of Highland, in the county of Sullivan, and making an appropriation therefor."

Senate Bill No. 1540, entitled "An act to provide for widening and deepening the channel in the outlet of Keuka lake from the lake to the steamboat docks in the village of Penn Yan, and making an appropriation therefor."

Senate Bill No. 505, entitled "An act to provide for deepening and widening Tonawanda creek in the towns of Batavia and Alexander, Genesee county, and making an appropriation therefor."

NOT APPROVED.

These bills provide for various local improvements which it is desired should be made at the expense of the State.

It does not appear, however, that there is any special State obligation in these cases. And in any event we have not the money at this time to expend in these improvements.

Apart from this, improvements of this sort should be made pursuant to a general system, so that all communities may be dealt with impartially and according to the same rule. Under the River Improvement Act provision is made, in cases within its purview, for an ascertainment of the necessity for the improvement and for the just apportionment of its cost, so that the share which may properly be borne by the localities benefitted and by the State, respectively, may be determined.

So far as the improvements, contemplated in these bills, are within that statute, proceedings should be taken thereunder, and if there are other classes of cases which should be reached, there should be a suitable amendment of the general law.

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the State School of Agriculture at Canton

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 131, entitled: "An act making an appropriation for the State School of Agriculture at Canton, New York."

Statement of item of appropriation of money contained in said bill which is objected to, to wit:

On Page 2.

"(g) For the purchase of land and farm buildings thereon, twenty-six thousand dollars (\$26,000)."

In view of the condition of the State treasury this additional appropriation cannot be allowed at this time.

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the Drafting and Revision of Legislative Bills

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 2226, entitled "An act to amend the legislative law, in relation to the drafting and revision of legislative bills, and making an appropriation therefor."

NOT APPROVED.

In view of other demands upon our revenues, this appropriation cannot be allowed.

(Signed) CHARLES E. HUGHES.

Making Appropriations for the State Institutions Reporting to the Fiscal Supervisor of State Charities

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 1795 (Senate re-print No. 1220), entitled "An act making appropriations for the state institutions reporting to the fiscal supervisor of state charities."

Statement of items of appropriations of money, contained in said bill, which are severally objected to, to wit:

On Page 1, Under the Head of Western House of Refuge for Women at Albion.

"For an iron fence, one thousand two hundred dollars (\$1,200);"

On Page 2, Under the Head of New York State School for the Blind at Batavia.

"for kindergarten building, thirty-five thousand dollars (\$35,000)."

On Page 2, Under the Head of New York State Soldiers and Sailors' Home at Bath.

"for an electric stove, five hundred dollars (\$500); for a food conveyor, three hundred fifty dollars (\$350);"

"for iron screens, four hundred fifty dollars (\$450);"

"for new sludge bed, two hundred fifty dollars (\$250);"

" for machinery for carpenter shop, eight hundred dollars (\$800) ; "

" for new corn house, three hundred dollars (\$300) ; for repairs to greenhouses, four hundred dollars (\$400) ; "

On Pages 2 and 3.

" for additions to coal pockets, fifteen thousand dollars (\$15,000) ; "

On Page 3, Under the Head of New York State Reformatory for Women at Bedford.

" For steam facilities for laundry, two thousand five hundred dollars (\$2,500) ; "

On Page 3, Under the Head of New York State Training School for Girls, Hudson.

" for central hot water heating system, five thousand dollars (\$5,000) ; "

" for two new cottages and outside connections, fifty-two thousand dollars (\$52,000) ; for alterations in first story of industrial building and additional laundry equipment, two thousand four hundred dollars (\$2,400) ; "

On Page 4, Under the Head of State Agricultural and Industrial School at Industry.

" for tile for drainage, two thousand dollars (\$2,000) ; "

" for ten silos, two thousand dollars (\$2,000) ; for additional cottages for boys, twenty-five thousand dollars (\$25,000) ; for additional land, twenty thousand dollars (\$20,000) ; "

On Page 4, Under the Head of Thomas Indian School at Iroquois.

" for alterations of basement of school building for gymnasium, five hundred dollars (\$500) ; "

On Page 4, Under the Head of Eastern New York Reformatory at Nanpach.

" For hospital building, fifty thousand dollars (\$50,000) ; "

On Page 5. Under the Head of New York State Custodial Asylum for Feeble-Minded Women at Newark.

“ For grading and seeding, one thousand dollars (\$1,000) ; ”

“ for additional buildings to accommodate three hundred and sixty inmates, one hundred eighty thousand dollars (\$180,000) ; for enlarging and repairing hospital and building mortuary, ten thousand dollars (\$10,000) ; for additional land, ten thousand dollars (\$10,000) ; for additions and alterations to laundry building, twenty thousand dollars (\$20,000) ; ”

“ for an industrial building, twenty-five thousand dollars (\$25,000) ; for a boundary fence, seven thousand five hundred dollars (\$7,500). ”

On Page 5, Under the Head of New York State Woman's Relief Corps Home at Oxford.

“ for making and grading roadway, three thousand dollars (\$3,000) ; for grading in front and rear of hospital, three thousand dollars (\$3,000) ; ”

On Page 6, Under the Head of New York State Hospital for Treatment of Incipient Pulmonary Tuberculosis at Ray Brook.

“ for the alteration of the fourth floor of the administration building as originally planned for an assembly hall, and completion of elevator thereto, seven thousand five hundred dollars (\$7,500). ”

On Page 6, Under the Head of Rome State Custodial Asylum.

“ for addition to laundry and laundry equipment, nine thousand five hundred dollars (\$9,500) ; ”

On Page 6, Under the Head of Craig Colony for Epileptics at Sonyea.

“ For house for first assistant physician, seven thousand five hundred dollars (\$7,500) ; for new coal trestle at central power plant, twelve thousand dollars (\$12,000) ; for blacksmith shop, two thousand dollars (\$2,000) ; ”

“ for addition to laboratory, and mortuary building, seven thousand dollars (\$7,000) ; for additions to west wing to Peterson hospital, twenty-five thousand dollars (\$25,000) ; for a barn, five thousand dollars (\$5,000) ; for a veranda on south side of hospital, four thousand dollars. (\$4,000) ; ”

On Pages 6 and 7.

“ for sun rooms for four cottages, five hundred dollars (\$500) ; ”

On Page 7.

“ for right of way, six hundred fifty dollars (\$650) ; ”

On Page 7, Under the Head of Syracuse State Institution for Feeble-Minded Children.

“ For high iron fence on north and west side of grounds, two thousand dollars (\$2,000) ; ”

On Page 7, Under the Head of New York State Hospital for Care of Crippled and Deformed Children at West Haverstraw.

“ For new hospital buildings, fifty thousand dollars (\$50,000) ; ”

We have not the money to make these improvements at this time. To maintain the existing work of the State, I have allowed the items which, together with the general allowances for repairs, are deemed essential. We have, in addition to the approved items of this bill, the further appropriations by special bills for the new institution for epileptics (Letchworth Village), amounting to \$186,250, and for the Training School for Boys at Yorktown, which is to take the place of the Randall's Island Institution, amounting to \$117,000.

There are also various reappropriations for betterments in the several charitable institutions of the State.

(Signed) CHARLES E. HUGHES.

Making Appropriations for the State Prisons, the Matteawan State Hospital for Insane Criminals and the Dannemora State Hospital for Insane Convicts

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Senate Bill No. 1465 (Assembly reprint No. 2636), entitled "An act making appropriation for repairs, renewals and betterments for the several state prisons, the Matteawan State Hospital for Insane Criminals and the Dannemora State Hospital for Insane Convicts."

Statement of items of appropriations of money, contained in said bill, which are severally objected to, to wit:

On Page 2, Under the Head of For Sing Sing Prison.

"For enlarging and equipping cell hall for the condemned prisoners, two thousand five hundred dollars (\$2,500)."

"For equipping dormitory, three thousand dollars (\$3,000)."

On Page 2, Under the Head of For Auburn Prison.

"For stairs from cell hall to chapel, three hundred and fifty dollars (\$350)."

"For repairs to boiler, six hundred dollars (\$600)."

"For repairing plumbing in kitchen, one hundred and fifty dollars (\$150)."

On Page 2, Under the Head of State Prison for Women.

"For furniture for matron's house, one thousand two hundred dollars (\$1,200)."

"For repairs to sewage system, five hundred dollars (\$500)."

On Page 3, Under the Head of Clinton Prison.

"For completion of prison wall, seven thousand dollars (\$7,000)."

"For repairing and furnishing warden's house, one thousand dollars (\$1,000)."

On Page 3, Under the Head of Matteawan State Hospital.

"For refrigerating plant, two thousand seven hundred and fifty dollars (\$2,750)."

"For replacing cattle condemned by the state commissioner of agriculture, one thousand dollars (\$1,000)."

On Page 3, Under the Head of Dannemora State Hospital.

"For store room and cold storage plant, six thousand five hundred dollars (\$6,500)."

On Page 4, Under the Head of Dannemora State Hospital.

"For excavating and grading, one thousand five hundred dollars (\$1,500)."

"For purchase of forest land for protection of water supply, ten thousand dollars (\$10,000)."

On account of the overcrowded condition of our prisons and the serious situation at Sing Sing, we are carrying forward plans for two new prisons. One is in progress at Great Meadow; for the other, first located at Bear Mountain, another site has been obtained at Wingdale, in Dutchess county. By special bills \$891,200 have been appropriated this year for the Great Meadow Prison, and it is expected that accommodations will there be provided for several hundred prisoners this fall. In view of this undertaking and the expected abandonment of Sing Sing, it is not deemed advisable to expend any more money than necessary upon the latter prison. In this and other cases, ordinary repairs are covered by the general maintenance funds.

The items, above set forth, cannot be allowed at this time.

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the Payment to Frederick Skene of Money to Reimburse Him for Liability Incurred While State Engineer in Receiving Moneys from the Automobile Manufacturers' Committee as Indemnity for Damages to State Highways

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 20, 1910.

Memorandum filed with Senate Bill No. 1325, entitled "An act making an appropriation for the payment to Frederick Skene of money to reimburse him for liability incurred while state engineer and surveyor, in receiving moneys from the automobile manufacturers' committee as indemnity for damages to state highways and for expenses incurred in connection therewith."

NOT APPROVED.

Aside from the question whether the State is liable in this matter, I am advised that the litigation has not yet been terminated.

(Signed) CHARLES E. HUGHES.

Amending the Code of Civil Procedure in Relation to Current Docket Books

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 21, 1910.

Memorandum filed with Senate Bill No. 1467, entitled "An act to amend the code of civil procedure, in relation to current docket books."

NOT APPROVED.

This bill provides for amendments of the code of civil procedure with respect to the judgment dockets to be kept by the county clerks of New York, Kings, Queens and Richmond

counties. The justices of the Supreme Court of the Second Judicial District, residing in the county of Kings, have informed me of their unanimous opposition to the bill upon the following grounds:

"First, that so far as concerns the county of Kings the work intended to be done under this amendment is now being done in the county of Kings under a system which has proved workable, convenient and ample; and

"Second, in so far as the proposed legislation imposes upon the county clerk of New York county the duty of appointing subordinates to do the work required to be done under the proposed act and renders the expenses incurred a charge against the county of New York alone, it is the unanimous opinion of the justices that the act is of doubtful constitutionality, in that it charges the county of New York alone with county charges that ought to be imposed upon all of the counties of Greater New York which are affected by the bill in question."

The bill is not approved.

(Signed) CHARLES E. HUGHES.

Amending the Tax Law in Relation to Sales for Non-Payment of Taxes in Warren County

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 23, 1910.

Memorandum filed with Senate Bill No. 1055, entitled "An act to amend the tax law, in relation to sales for nonpayment of taxes in Warren county."

NOT APPROVED.

With respect to this bill the State Comptroller says:

"As it is the policy of the State to acquire title to lands in counties embracing portions of the Forest Preserve, it has been thought best to have all such counties return their un-

paid taxes on real property to this office and have the sale of the land therefor made by the Comptroller, thus giving the State an opportunity to acquire title to lands that it might not have if the tax sales were held by the county treasurers.

"It has been contended that the provision requiring the county treasurer to file with the Comptroller a 'statement of all tracts or parcels of land situated in the forest preserve which have been bid in by the county and have not been redeemed' and directing the sale and conveyance to the State of such of said parcels as the Comptroller should designate, would accomplish this end.

"The experience of this Department with the counties of St. Lawrence, Lewis, Oneida and Clinton does not bear out this contention. The State has not secured title to any land sold by the treasurers of either of said counties, and bid in for such counties, since the enactment of the laws authorizing such sales.

"In my opinion the enactment of this bill would not be in the line of good public policy."

The bill is not approved.

(Signed) CHARLES E. HUGHES.

Amending the Tax Law Relative to Taxable Transfers

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 23, 1910.

Memorandum filed with Assembly Bill No. 2560, entitled "An act to amend the tax law, relative to taxable transfers."

NOT APPROVED.

This bill is not approved for the reasons stated in my message to the Legislature under date of June 20, 1910.

(Signed) CHARLES E. HUGHES.

Authorizing the City of Albany to Acquire Certain Lands for a Public Park

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 1448, entitled "An act to authorize the city of Albany to acquire certain lands for a public park."

NOT APPROVED.

This bill authorizes the city of Albany to acquire a certain tract of land for the purposes of a public park. The tract is bounded "on the north by State street; on the east by the bulkhead line of the Albany basin; on the south by Hamilton street, and on the west by Broadway." The bill confers authority to issue bonds to pay the necessary expense to the amount of \$2,000,000.

To justify this special provision of law in addition to the ordinary powers of the city, there should appear to be some exigency requiring it.

It has been suggested that it is important to the city that the water front should be developed, but this bill has no relation to any development of the water front that is suited to the city's needs. The tract to be acquired extends to the bulkhead line but there is no provision for such improvements as are suited to commerce or shipping or a desirable extension of the facilities of trade.

The acquisition of this tract is stated in the bill to be for the purpose of a "public park." This would seem to exclude development for commercial purposes. No intelligible statement of any exigency requiring such a park has been submitted to me; on the contrary, the proposition has evoked a vigorous protest on the part of citizens, which was voiced emphatically at the hearing.

If the city needs power to deal with any question affecting its interests, the development of its commerce and the proper improvement of its water front, it should seek appropriate legislation for that purpose. But nothing appears which would justify the approval of this bill.

(Signed) CHARLES E. HUGHES.

Amending, Consolidating and Revising the Several Acts Relative to the City of Amsterdam

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2470, entitled "An act to amend, consolidate and revise the several acts relative to the city of Amsterdam."

NOT APPROVED.

Section 13 of this bill, in part, provides as follows:

"the commissioner of public safety shall appoint a chief engineer of the fire department and a chief of police who, in his judgment, are best qualified to perform the duties of their respective offices and they shall hold office during the pleasure of such commissioner and may be summarily removed by him at any time, without notice, the provisions of the local civil service and of the state civil service boards or of any statute of the state of New York as to such appointment or removal to the contrary notwithstanding."

However well intentioned, this is a bald attempt, for the purposes described, to override the Civil Service Law of the State. Its language is explicit. The approval of the bill would establish a vicious precedent.

If it is impracticable to apply the rule of competition to the places above described, the result should be obtained by a proper classification, pursuant to civil service rules lawfully adopted. Thus it would be within the power of the municipal civil service commission, acting with the approval of the mayor of the city, and of the State Civil Service Commission to classify the positions in the exempt class or grant other relief in accordance with the provisions of the law. This course undoubtedly would involve a proper application of the Civil Service Law and also a fair determination of the question as to the practicability of competitive examinations in the particular cases.

To seek, however, to make the law inoperative and to nullify its entire method of procedure in these cases is en-

tirely unjustified from any point of view. The objection can be met only by the suggestion that the provision would be invalid, but evidently its validity has been counted upon.

Controversy and uncertainty with respect to the legal status of such important officers of the city would be most unfortunate and should be avoided.

I regret that for these reasons I cannot see my way clear to approve the bill.

(Signed) CHARLES E. HUGHES.

Amending Chapter Fifteen of the Laws of Nineteen Hundred and Nine, entitled "An act in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws," in relation to the power of removal.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2404, entitled "An act to amend chapter fifteen of the laws of nineteen hundred and nine, entitled 'An act in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws,' in relation to the power of removal."

NOT APPROVED.

I shall not attempt to deal with the question of the advisability of the amendment in this bill relating to removals. This would extend the provision now applicable to New York city, to other portions of the State. There is a sharp conflict of opinion as to the wisdom of such a provision.

Apart from this, there is another provision in the bill which in any case would lead me to disapprove it.

The bill amends the Civil Service Law so as to provide that whenever positions in the competitive class are abolished or made unnecessary, the persons holding them shall be deemed to be suspended without pay and "shall be entitled to reinstatement in the same or any corresponding or similar position if within three years thereafter there is need for his services." This would extend the right of reinstatement to three years and apply to the public service of the entire State. While such a measure may be desirable from the standpoint of those in the employ of the State, I believe it to be opposed to the interest of the State as a whole. The period is too long. There is in effect a preferred list for three years, not simply for the department from which the employees have been dropped, but with regard to "any corresponding or similar position." The requirements of justice to the employee whose services are dispensed with can be met by a more limited period.

The purpose is not simply to provide that the suspended employee may be appointed within three years to similar work, but the suspended list is made a preferred list, and appointments cannot be made from any other list until it is exhausted.

Undoubtedly there will be hard cases, but the system should be adjusted to the average results of experience. Save in exceptional circumstances, the probability is that the least efficient will be retired as places become unnecessary; and while a reasonable opportunity should be afforded for reinstatement, the long period of life for the suspended list, the obligatory feature to which I have referred, and the necessity of drawing upon the list in all departments, with respect to the same class or grade of work, would be injurious to the public service.

The bill is disapproved.

(Signed) CHARLES E. HUGHES.

Providing a Charter for the City of Melzinga

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 1591, entitled "An act to provide a charter for the city of Melzinga."

NOT APPROVED.

This charter lacks suitable provision for the holding of the first election by which the officers of the new city are to be chosen. The scheme of section 245 fails sufficiently to provide for the necessary machinery and is conspicuously wanting in those provisions which have been deemed essential to new charters. My examination of this bill has led me to the conclusion that the omissions are not sufficiently supplied by other provisions of the charter or by references to the Election Law.

It is better to postpone the creation of the new city, and to start right, than to have the life of the municipality begin in controversy, involving the status and title to office of all its officers.

This consideration is apart from the effect of the invalidity of the test which it is sought to apply to candidates for office under sections 159 and 168, which would seem to be in contravention of section 1 of article 13 of the Constitution.

I am satisfied that serious entanglements would follow the approval of this bill and that those portions which admit of serious criticism should be eliminated before the charter takes effect.

(Signed) CHARLES E. HUGHES.

Bills Affecting the City of New York — Not Accepted by the City

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with bills specified below.

NOT APPROVED.

These bills contain provisions affecting the city of New York and have not been accepted by the city.

Assembly Bill No. 2645, entitled "An act to amend chapter three hundred and ninety of the laws of nineteen hundred and nine, entitled 'An act to authorize the acquisition of a site for, and the construction of a court house in the county of Kings, and to provide for the maintenance thereof,' in relation to selecting and acquiring such site and the construction and maintenance of such court house."

Senate Bill No. 1023, entitled "An act to amend the public health law, in relation to payment of fines to the pedic society of the state of New York."

Senate Bill No. 1029, entitled "An act to amend the public health law, in relation to payment of fines to the New York state nurses' association."

Senate Bill No. 1030, entitled "An act to amend the public health law, in relation to the payment of fines, penalties and forfeitures to the state dental society."

Senate Bill No. 1032, entitled "An act to amend the public health law, in relation to fines payable to medical societies."

(Signed) CHARLES E. HUGHES.

Miscellaneous Measures

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with bills specified below.

NOT APPROVED.

If the present restrictions of the general law operate unjustly, suitable amendment should be made. But the relief

should be extended to all within the classes of cases demanding it as they may be defined by general legislation.

The bills above referred to are as follows:

Assembly Bill No. 806, entitled "An act to authorize the comptroller of the state to hear and determine the application of Eli Christman for cancellation of a tax sale made by the comptroller in nineteen hundred of a portion of lot number seventeen, Lott & Low's patent, in the town of Stratford, Fulton county."

Assembly Bill No. 2233, entitled "An act to authorize the comptroller of the state to hear and determine the application of George D. Baldwin for the cancellation of tax sale made in the year eighteen hundred and forty-eight of subplot one of lot twenty-four, Palmer's purchase, middle division, Hamilton county."

Assembly Bill No. 990 (Senate reprint No. 1184), entitled "An act authorizing the board of estimate and apportionment of the city of New York to hear and determine, and the comptroller of the city of New York to pay the claim of Donald Grant against the city of New York."

Assembly Bill No. 2479, entitled "An act to authorize the state comptroller to release to Ludwig Olsen all of the right, title and interest of the state in certain lands in the town of Kingston, in the county of Ulster, heretofore acquired by the state at the annual tax sale in said county in the year eighteen hundred and ninety-five."

Senate Bill No. 1234, entitled "An act to release to the successors in interest of the Mount Pleasant Cemetery Association of Kings county according to their respective interests all of the right, title and interest of the people of the state of New York in and to certain real estate situated in the borough of Brooklyn, county of Kings, and state of New York, acquired by escheat or otherwise, upon the death of Paul Pontau."

Assembly Bill No. 2413, entitled "An act authorizing the commissioners of the land office to complete the sale by grant and conveyance of certain unappropriated state lands."

(Signed) CHARLES E. HUGHES.

Authorizing the Board of Supervisors of Erie County to Pay to Various Towns of Erie County and the City of Tonawanda Sums of Money Illegally Charged Against Their Taxable Property — Not Passed by the Legislature

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 298, entitled "An act authorizing and directing the board of supervisors of Erie county to pay to various towns of Erie county and the city of Tonawanda certain items or sums of money illegally charged against the taxable property, inhabitants and corporations of said towns in the various annual tax rolls and warrants for said towns, and authorizing the county of Erie to issue its bonds with which to make such payments, and legalizing the previous acts of the several town boards in said county in relation to collecting such sums."

NOT APPROVED.

From the information I have received from the journal clerk of the Assembly, and from the entries on the Assembly journal, I am satisfied that this bill is not properly before me, not having passed the Legislature.

(Signed) CHARLES E. HUGHES.

Amending the Personal Property Law Relative to Transfers of Shares of Stock in Corporations

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2597, entitled "An act to amend the personal property law, relative to transfers of shares of stock in corporations."

NOT APPROVED.

This bill is intended to embody one of the "uniform laws" which it is desired should be adopted by all of the States. It relates to an important subject upon which there should be uniformity among the States, and I regret that I cannot approve the bill. But an examination discloses certain informalities and defects which should not be ignored. For example, in section 166, it is provided as follows:

"The delivery of a certificate to transfer title in accordance with the provisions of section one is effectual, except as provided in section seven, though made by one having no right of possession and having no authority from the owner of the certificate or from the person purporting to transfer the title."

There is no "section one," and there is no "section seven" to which the section can refer. It may be supposed that in some draft the sections were numbered differently, but this does not appear from the bill or from the legislative records.

There are other defects and certain informalities which can readily be cured.

For example, in one place the word "not" is wrongly inserted so that the reading is exactly opposite to the intention.

If the statute as here proposed is to form a part of the Personal Property Law, the adjustment of the statute to that law should be made by appropriate references. In the present bill the descriptions are inapt.

In a matter of this importance it is better to wait a few months and to have the statute in proper form, than to place it upon the books as it is proposed by this bill.

(Signed) CHARLES E. HUGHES.

Amending the Tax Law in Relation to the Assessment of Waste or Barren Lands Which Have Been Planted with Trees

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2286, entitled "An act to amend the tax law, in relation to the assessment of waste or barren lands which have been planted with trees."

NOT APPROVED.

This bill has been criticised by the State Tax Commission upon grounds which seem to be well taken. It is necessary that the scheme of encouraging the growth of timber by exempting it from taxation during the period of its growth should be very carefully worked out. While this is an improvement on last year's bill, it is still inadequate.

(Signed) CHARLES E. HUGHES.

Amending the Code of Civil Procedure and Repealing Certain Sections Thereof in Relation to Actions to Recover Real Property

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2069, entitled "An act to amend the code of civil procedure and repealing certain sections thereof, in relation to actions to recover real property."

NOT APPROVED.

The purpose of this bill is to abolish the absolute right to a second trial, and the discretionary rights to a third trial, in an ejectment suit. I am in entire sympathy with this purpose and I regret that I cannot see my way clear to sign this bill.

But there are other considerations, with regard to public rights, which I cannot ignore. Important litigation is pending with respect to the title of the State to lands in the forest preserve. From such information as I have relating to the circumstances of this litigation, I am unwilling to take the responsibility of depriving the State, by the approval of this bill, of the rights it now enjoys.

(Signed) CHARLES E. HUGHES.

Amending the Labor Law in Relation to Prescribing the Compensation of Certain Employees in the Highway Department and in the Construction of the Barge Canal

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 1296 (Senate reprint No. 1535), entitled "An act to amend the labor law, in relation to prescribing the compensation of certain employees in the highway department and in the construction of the barge canal."

NOT APPROVED.

This provides that all employees of the State who are under the direction of the State Engineer and Surveyor or the State Department of Highways and are now receiving compensation at the rate of two dollars a day shall receive "when employed as axemen" two dollars and a half a day.

In other words, it provides that axemen shall be paid two dollars and a half a day.

But there is no necessity for a statute in this case. I am advised by the State Civil Service Commission that the rate of compensation can be changed by the heads of the departments, with the approval of the Commission.

(Signed) CHARLES E. HUGHES.

Legalizing the Tax Election Held in the City of Niagara Falls in Nineteen Hundred and Nine Authorizing the Purchase of Certain Real Property

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2352, entitled "An act to legalize the tax election held in the city of Niagara Falls on the ninth day of November, nineteen hundred and nine, authorizing the purchase of certain real property and the issuance of bonds of said city for such purpose, and to authorize the issuance of such bonds and the levy and collection of taxes for the payment of the principal and interest thereof."

NOT APPROVED.

In the notice of the special election to which this bill relates the qualified electors were called upon to vote upon the proposition whether certain premises should be acquired "for the purpose of a public park *or* city hall." The charter provides that the notice shall state "for what particular purpose" the money in question is to be raised, or the property taken. This notice being in the alternative, as above stated, was radically defective, and the election with the proposal in such form could not serve the purpose for which the statute intended it. In such a case it does not seem to me that the election should be legalized.

(Signed) CHARLES E. HUGHES.

Incorporating the City of White Plains

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 1633, entitled "An act to incorporate the city of White Plains."

NOT APPROVED.

Many objections have been urged to provisions of this charter, but it is not necessary to deal with them further

than to say that there was disclosed upon the hearing a striking lack of agreement among the citizens as to the advisability of its adoption.

Apart from these objections it appears that the new city of White Plains would begin its existence, if this charter were approved, with an indebtedness already exceeding the constitutional limitation. It would be without that borrowing capacity which would enable it properly to discharge its function as a city. The difficulty could not be cured by legislative authority, for the city would be under the constitutional restriction from which the Legislature could not relieve it. How long this condition would exist it is impossible now to say. But apparently it would continue for a considerable period.

It seems to me decidedly important that the communities affected by this bill should not be incorporated into a city until the city can be established upon a proper financial basis.

Certainly such action should not be taken against substantial objection.

(Signed) CHARLES E. HUGHES.

**Amending the Lien Law by Inserting in Article Eight
a New Section Providing for a Lien in Favor of Fac-
tors, Commission Merchants and Private Bankers
upon Certain Merchandise and the Proceeds Thereof**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2361 (Senate reprint No. 1573), entitled "An act to amend the lien law, being chapter thirty-three of the consolidated laws, by inserting in article eight thereof a new section, to be known as section one hundred and eighty-six, providing for a lien in favor of

factors, commission merchants and private bankers upon certain merchandise and the proceeds thereof."

NOT APPROVED.

The proposed amendment to the Lien Law is intended for the protection of a class of business which has grown up in recent years in which commission merchants make advances against the sales of goods which are largely in charge of the manufacturers or owners themselves or of selling agents acting for the owners or consignors. The nature of these transactions is such that it is frequently difficult to maintain the possession which is essential to the factor's lien.

But while this bill has been drawn to meet the exigencies of those who are conducting their business in good faith, it would, among the less scrupulous, facilitate secret liens and fraudulent transactions.

Where it may be deemed sound policy to permit a lien by statute in the absence of actual possession, notice of the lien should be required by the filing in a public office of suitable and adequate information with respect to the lien and the persons, property and places which it concerns.

The present bill is lacking in essential safeguards and I cannot approve it.

(Signed) CHARLES E. HUGHES.

Amending the Charter of the City of Oswego in Relation to Authorizing the City to Issue Bonds for the Construction of Certain Sewers Therein and a Sewage Disposal Plant Therefor

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 1711, entitled "An act to amend chapter three hundred and ninety-four of the laws of eighteen hundred and ninety-five, entitled 'An act to revise the charter of the city of Oswego,' in relation to

authorizing the city of Oswego to issue bonds for the construction of certain sewers therein and a sewage disposal plant therefor."

NOT APPROVED.

The charter provides for the building of sewers on a basis which permits not more than one-half of the cost to be met by general assessment. The charter also provides for the submission to a vote of the taxpayers of the city whether bonds shall be issued for any municipal purpose.

This bill authorizes the construction of certain described sewers at the expense of the city at large, which is to be met in the first instance by issues of bonds amounting to \$150,000 without a submission of the question to the taxpayers.

The bill is strongly objected to upon the ground that the cost is not equitably distributed, that adequate plans have not been made, and that such a large increase in the indebtedness of the city should not be authorized without permitting the qualified electors to pass upon it.

From such information as I have received I have reached the conclusion that there is no such exigency as would warrant the course authorized by this bill, and that the objection to the bill on the ground that it does not provide for a suitable submission of the proposition to the taxpayers is well taken.

The bill is not approved.

(Signed)

CHARLES E. HUGHES.

**Amending the State Boards and Commissions Law in
Relation to the Ownership of River Improvements and
the Assessment of the Amount of Benefit Received
Thereby**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2131, entitled
"An act to amend chapter fifty-six of the laws of nineteen

hundred and nine, entitled 'An act in relation to state boards and commissions, constituting chapter fifty-four of the consolidated laws,' in relation to the ownership of river improvements and the assessment of the amount of benefit received thereby."

NOT APPROVED.

The purpose of this bill is to facilitate the making of important water power developments under the provisions of the statute relating to river improvement. The River Improvement Act was designed to relieve conditions menacing the public health and safety and it may be questioned whether in any event it would be adequate to the plans contemplated by this measure.

It is apparent, for reasons which I have repeatedly stated in my messages to the Legislature, that there is need for appropriate legislation to secure the advantages which would flow from water power development, not limited to mere considerations of public health and safety. We should have a comprehensive scheme so that the sources of industrial power in this State may be properly availed of; and that we may have that extension of industry under conditions safeguarding the public interest which will greatly promote the common prosperity.

v This bill, however, presents no such plan and, in what it does provide, is plainly unsatisfactory.

It is suggested that it contemplates cases where the entire cost of the improvement is to be borne by municipalities and individuals benefited and not by the State; still it is not so limited and is an amendment to the general law which provides for contributions by the State as well as by municipalities and individuals where it appears and is determined that the State should bear a portion of the expense.

The provision made by the bill for State control over the improvement is inadequate. We have already in the law (State Boards and Commissions Law, section 21) the general provision that "The care, control, operation and maintenance of improvements to rivers and water courses provided for in

this article shall devolve upon the commission." This, although general, may be sufficient for the sort of river improvement that was in view when the statute of which this provision forms a part was enacted; but if the River Improvement Act could be treated as sufficient in scope to embrace the large projects of water power development now contemplated, the relation of the State should be more definitely prescribed.

This bill first provides that "the title and ownership of all lands, properties and interests taken for such improvement" shall vest in the people of the State of New York "after the payment of the final assessment under the provisions of this article for the cost of an improvement, including bonds, certificates and other liabilities incurred."

As the bonds, under the statute, may run for fifty years, this language contemplates in such a case the vesting of title in the State at the end of the fifty years, when the bonds are finally paid. The reference is to "lands, properties and interests taken for such improvement." If lands, properties and interests had already been taken, in making the improvement, under the provisions of the act relating to purchase and condemnation by the Commission on behalf of the State, it would seem that the title had already been acquired. If the bill refers to other properties, the question at once occurs, what properties are meant and what precisely is to vest in the State when the bonds are paid? In this respect the bill is altogether too vague and uncertain.

The bill further provides that "after the levy of the aforesaid final assessment" the Commission shall annually determine "the amount of benefit collectively received by the lands, properties, interests and municipalities, which amount however shall never exceed a sum equal to five per centum per annum upon the original cost of such improvement." The said amount is to be collected and paid over in the same manner as provided for the collection and payment of the original cost of the improvement, and is to be paid, after the deduction of expenses and maintenance, into the treasury of the State for the benefit of the general fund.

The language I have quoted of course does not mean that the actual benefit received by the properties, interests and municipalities benefited shall never exceed the said five per cent. It means that, whatever the actual benefit may be, the State shall not be permitted to obtain a larger annual return than the said five per cent, and this is provided with respect to a period perhaps fifty years hence.

The intention evidently is to secure the application of the River Improvement Act to projects of water-power development by the inducement afforded by this provision for a return to the State. The bill admits the principle that there should be a return to the State upon the improvement, but admitting the principle, there appears to be no justification for the limitation provided for in the bill.

If the State is to make assessments annually for benefits derived from the water-power development, it is plain that these benefits should be determined justly and that the assessment should be fixed fairly with respect to them. This bill provides no adequate machinery for these purposes, but simply imposes now an arbitrary limitation with respect to what may be fair in the future, say at the end of fifty years.

The bill further provides that "lands, properties and interests" while subject to taxation under the provisions of the statute, "shall not be assessed for general taxation upon any increase in the value thereof by reason of any such improvement."

Such a measure cannot be approved. So far as the State is concerned, it is vague in part and unduly restrictive in part. So far as water-power development is concerned, it does not afford an adequate scheme to relieve the necessities of industry or to meet the wants of the people.

I have been very desirous that there should be a proper plan by which our water powers can be developed on a basis fair to all; but the details of such a plan need to be worked out carefully, and I do not believe this can be done by a mere addition to the River Improvement Act.

(Signed) CHARLES E. HUGHES.

Increasing Two Hundred Thousand Dollars the Bonds to be Issued by the State in the Acquisition of a Reservation at Saratoga Springs

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2601, entitled "An act to amend chapter five hundred and sixty-nine of the laws of nineteen hundred and nine, entitled 'An act to authorize the selection, location and appropriation of certain lands in the town of Saratoga Springs, for a state reservation, and to preserve the natural mineral springs therein located, and making an appropriation therefor, and authorizing an issue of bonds to pay such appropriation.'"

NOT APPROVED.

This bill provides for an increase of \$200,000 in the bonds to be issued by the State in the acquisition of a reservation at Saratoga Springs so as to make the total authorized issue \$800,000.

There is no exigency which would justify this increase.

The investigations conducted by the Commission appointed under the act of 1909 have confirmed the view of the importance to the people of the State of conserving the mineral springs at Saratoga, and of the propriety of action by the State to that end. The Commission has been deeply interested in the matter, and, at the same time, careful to safeguard the State against an improvident outlay.

The litigation under the act of 1908, with respect to pumping, is still in progress; and, while negotiations have been under way, the offers received have not been such as to permit a satisfactory arrangement for the acquisition upon reasonable terms of the properties essential to the reservation. There is no sufficient ground, in my judgment, for a further appropriation.

The bill is not approved.

(Signed) CHARLES E. HUGHES.

Amending the State Boards and Commissions Law in Relation to Apportioning, Collecting and Paying the Cost of Improvements in Water Courses, in Certain Cases, and in Relation to the Conservation, Development and Regulation of the Water Resources Within the State for the Public Use and Benefit

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2382 (Senate reprint No. 1635), entitled "An act to amend the state boards and commissions law, in relation to apportioning, collecting and paying the cost of improvements in water courses, in certain cases, and in relation to the conservation, development and regulation of the water resources within the state for the public use and benefit."

NOT APPROVED.

Section 25 of the State Boards and Commissions Law which this bill amends is entitled, "State jurisdiction of the improvement of water courses at private expense." The amendment largely extends the provisions of former section 25 and contemplates plans of improvement to which the State may contribute. It strikes out the former reference to the requirements of public health and safety as the condition of the improvement, and substitutes the words "public uses and purposes." It would seem to provide for any improvement of water courses which may be regarded as for a public use. For this purpose the State Water Supply Commission is to investigate the importance of the plan of improvement submitted, and if it is approved, it is to make an estimate of cost and determine "the several portions thereof to be borne, respectively, by the state, by the village or other municipality or civil division, and by the property owners collectively benefited by the improvement."

If we are to have provision for the use of State moneys in the improvement of streams, not limited to considerations of public health and safety, but generally for public uses, including water power development, careful provision should be made

to safeguard the interests of the State, to maintain its proper control and to secure a fair return for the benefits conferred.

This bill in its definitions and in its provisions for inquiry and planning by the various State departments contemplates extensive water-power development. Legislation appropriate to this end has not yet been enacted. And my examination of this bill, considering the scope of application which the amended section 25, read in connection with its context, would seem to permit, has satisfied me that it does not afford a suitable scheme for the protection of the State, and that it should not become a law.

It is to be regretted that a comprehensive measure for water-power development, with the necessary details for the execution of a proper plan, has not been provided. The State Water Supply Commission will undoubtedly continue its investigations, and this bill is not needed for that purpose.

The bill is not approved.

(Signed) CHARLES E. HUGHES.

Special City Bills Not Accepted by the Cities in Question

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with bills specified below.

NOT APPROVED.

The following bills have not been approved for the reason that they are special city bills and were not accepted by the cities in question in accordance with the Constitution.

Senate Bill No. 1439, entitled "An act to amend section one hundred and ninety-three of chapter twenty-two of the laws of nineteen hundred and nine, known as the election law, being chapter seventeen of the consolidated laws, in relation to the elections."

Senate Bill No. 1656, entitled "An act to amend the Greater New York charter, relating to the opening of streets and parks

and the acquisition of title in fee or to an easement therein, or in lands for public purposes not elsewhere provided for."

Senate Bill No. 324, entitled "An act to authorize and empower the board of estimate and apportionment of the city of New York to examine and inquire into, audit, allow and provide for paying the claims of the employees of the department of docks and ferries of such city."

Senate Bill No. 910, entitled "An act to amend the code of civil procedure, in relation to interpreters in the city court of the city of New York."

Senate Bill No. 1175, entitled "An act to appropriate the sum of seven hundred and twenty dollars annually, for the benevolent fund of the Williamsburg Volunteer Firemen's Association."

Senate Bill No. 821, entitled "An act to amend the Greater New York charter, in relation to creating two additional municipal court districts in the borough of The Bronx, the election of justices, and the appointment of officers therefor, and the equipment of courts therein."

Senate Bill No. 1128, entitled "An act to amend the Greater New York charter, in relation to the control of West Ninety-sixth street by the department of parks of the city of New York."

Senate Bill No. 1414, entitled "An act to amend the Greater New York charter, in relation to the powers of the police commissioner to rehear applications for pensions."

Senate Bill No. 1156, entitled "An act to amend the Greater New York charter, in relation to the establishment of day nurseries and the acquisition of land and buildings therefor."

Senate Bill No. 1213, entitled "An act to amend chapter six hundred and sixty-five of the laws of eighteen hundred and ninety-seven, entitled 'An act to lay out and establish and construct a public drive and parkway in the city of New York as an extension of Riverside Drive to the Boulevard Lafayette,' in relation to the area of assessment."

Senate Bill No. 72, entitled "An act providing that the police commissioner of the city of New York, in his discretion, may reappoint William C. Hoffman, an ex-policeman of the city of New York, who resigned from said police department."

Senate Bill No. 1114, entitled "An act to amend the Greater New York charter, in relation to contracts and local improvements."

Senate Bill No. 1559, entitled "An act to amend the Greater New York charter, relative to the board of education."

Senate Bill No. 778, entitled "An act to amend the Greater New York charter, in relation to bonds and obligations of the city."

Senate Bill No. 1111, entitled "An act to amend the Greater New York charter, in relation to the department of docks and ferries."

Senate Bill No. 1580, entitled "An act creating a state water supply commission to investigate water supply conditions in the county of Westchester, and making an appropriation therefor."

Assembly Bill No. 245 (Senate reprint No. 1650), entitled "An act to authorize the board of estimate and apportionment of the city of New York to hear and determine the claims of John R. Nugent and Henry J. Jackson."

Assembly Bill No. 1083 (Senate reprint No. 1649), entitled "An act to permit the fire commissioner of the city of New York to determine the amount of pension to be allowed to James H. Ballentine from the firemen's pension fund."

Assembly Bill No. 2048, entitled "An act to amend section three hundred and thirty-five of the code of civil procedure, in relation to attendance in the city court of the city of New York."

Assembly Bill No. 2568, entitled "An act to authorize the board of assessors of the city of New York to determine the damages sustained by owners of real property on Jackson avenue, Flushing creek, in the borough of Queens, city of New York, and on Broadway in the former town of Flushing, Long Island, now the city of New York, by reason of the construction of a bridge with the approaches thereto over Flushing creek at Jackson avenue, borough of Queens, city of New York, and Broadway in the former town of Flushing, now the city of New York."

Assembly Bill No. 823 (Senate reprint No. 1653), entitled "An act to confer certain rights upon the city of Mount Vernon

and upon the city of New York, with respect to supplying water to the said city of Mount Vernon and the inhabitants thereof from the water supply of the city of New York."

Assembly Bill No. 2392, entitled "An act to provide for a supply of pure and wholesome water for the city of Mount Vernon; and for the acquisition of lands or interests therein, and for the construction of the necessary reservoirs, dams, aqueducts, filters and other appurtenances for that purpose; and for the appointment of a commission with the powers and duties necessary and proper to attain these objects."

Assembly Bill No. 2563 (Senate reprint No. 1646), entitled "An act to amend the Greater New York charter, in relation to establishing a public recreation commission."

Assembly Bill No. 2572, entitled "An act to amend the Greater New York charter, in relation to official newspapers in the boroughs of Queens, Richmond and The Bronx."

Assembly Bill No. 2673, entitled "An act to amend the Greater New York charter, in relation to allowances for blind persons and appropriations therefor, and making temporary provision for raising funds for the present increase of such allowances."

Assembly Bill No. 1736, entitled "An act to amend the Greater New York charter, in relation to payments from the public school teachers' retirement fund."

Assembly Bill No. 1966, entitled "An act to authorize the city of Corning to issue bonds in a sum not exceeding twenty thousand dollars for the purpose of erecting a garbage incinerating plant for such city."

Assembly Bill No. 1466, entitled "An act to amend chapter three hundred and thirty-five of the laws of eighteen hundred and sixty-eight, entitled 'An act to incorporate the city of Ogdensburg,' in relation to powers of the board of health, and repealing certain sections thereof relating to the powers of the common council."

Assembly Bill No. 2661, entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo,' in relation to janitresses of the police department."

(Signed)

CHARLES E. HUGHES.

Duplicates, unnecessary, defectively drawn, embraced in or in conflict with bills already signed, unconstitutional, for purposes which can be suitably accomplished under general laws, or should be provided for, if at all, by amendments to the general law, or objectionable and inadvisable by reason of proposed changes.—The Omnibus Veto

STATE OF NEW YORK —EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with bills specified below :

NOT APPROVED.

The following bills are not approved because they are either duplicates or unnecessary, or are defectively drawn, or are embraced in or in conflict with bills already signed, or are unconstitutional, or are for purposes which can be suitably accomplished under general laws, or should be provided for, if at all, by amendments to the general law, or are objectionable and inadvisable by reason of proposed changes.

Senate Bill No. 1311, entitled "An act to make an appropriation for the payment of the judgments of the court of claims, in claims other than those on account of the canals of this state."

Assembly Bill No. 2353, entitled "An act to make an appropriation for the payment of the judgments of the court of claims, in claims arising on account of the canals of this state."

Assembly Bill No. 1713, entitled "An act to amend the insanity law, in relation to the reimbursement of the state for the support of inmates of state hospitals and the enforcement of the state's claims therefor."

Assembly Bill No. 2587, entitled "An act to establish a hospital commission for the city of Yonkers and to provide for the care of persons in said city suffering from tuberculosis in advanced stages."

Assembly Bill No. 2452, entitled "An act relating to the repeal of certain sections of the membership corporations law, in relation to the tax upon the gross receipts of trotting or running race meetings within the state."

Senate Bill No. 359, entitled "An act to amend the forest, fish and game law, in relation to the taking of deer on Long Island."

Senate Bill No. 888, entitled "An act to amend article four of chapter fifty-one of the laws of nineteen hundred and nine, entitled 'An act in relation to public officers, constituting chapter forty-seven of the consolidated laws,' relative to the granting of vacations to certain state employees."

Senate Bill No. 1419, entitled "An act to amend the highway law, in relation to the description of route number five."

Assembly Bill No. 906, entitled "An act to amend the highway law, in relation to the course of route number two, in the county of Columbia."

Assembly Bill No. 353, entitled "An act to amend chapter two hundred and forty-two of the laws of nineteen hundred and six, entitled 'An act to amend, revise and consolidate the charter of the village of Ossining, and to extend the boundaries of said village,' relative to village boundaries."

Assembly Bill No. 1604, entitled "An act to amend the tax law, relative to the time of making special franchise valuations by the state board of tax commissioners."

Assembly Bill No. 2605, entitled "An act to amend the agricultural law, in relation to the shipping of calves under four weeks of age."

Assembly Bill No. 1937, entitled "An act to amend chapter one hundred and twenty-eight of the laws of eighteen hundred and ninety-nine, entitled 'An act to incorporate the city of New Rochelle,' in relation to the police force of said city and the compensation thereof."

Assembly Bill No. 2450, entitled "An act to amend chapter one hundred and twenty-eight of the laws of eighteen hundred and ninety-nine, entitled 'An act to incorporate the city of New Rochelle, in relation to the power of the common council.'"

Assembly Bill No. 2256 (Senate reprint No. 1625), entitled "An act to amend the highway law, in relation to state-county highways, and connecting highways, in villages."

Senate Bill No. 1556, entitled "An act to amend the village law, in relation to the power of a village to borrow money for certain purposes."

Assembly Bill No. 445, entitled "An act to amend the public service commissions law, in relation to the transportation of certain persons by common carriers at reduced rates." *

Assembly Bill No. 1828, entitled "An act to amend the tax law, in relation to taxable transfers and exceptions thereto."

Assembly Bill No. 1540 (Senate reprint No. 1491), entitled "An act to amend the forest, fish and game law, in relation to the taking of certain fish in certain counties."

Senate Bill No. 1430, entitled "An act to amend the insanity law, relative to the retirement of officers and employees of state hospitals for the insane."

Assembly Bill No. 2546, entitled "An act to amend the insanity law, relative to the retirement of officers and employees of state hospitals for the insane."

Senate Bill No. 1431, entitled "An act to amend sections seven hundred and sixty-eight, eight hundred and seventy, eight hundred and seventy-two and eight hundred and eighty-one of an act, entitled 'An act relating to courts, officers of justice and civil proceedings,' passed June second, eighteen hundred and seventy-six."

Assembly Bill No. 2446, entitled "An act to amend chapter one hundred and seventeen of the laws of eighteen hundred and eighty-three, entitled 'An act to amend, consolidate and revise the charter of the village of Peekskill, and the several acts amendatory thereof,' in relation to the powers of the board of trustees of such village to raise and apply moneys for charitable purposes."

Assembly Bill No. 323, entitled "An act to place under the jurisdiction and control of the town board of the town of Mendon, county of Monroe, certain neglected cemeteries in such town."

Assembly Bill No. 2067 (Senate reprint No. 1364), entitled "An act to amend chapter six hundred and seventy of the laws of eighteen hundred and ninety-two, entitled 'An act to amend chapter five hundred and ninety-eight of the laws of eighteen hundred and seventy, entitled "An act to amend an act to incorporate the city of Troy, passed April twelfth, eighteen hundred and sixteen, and the several acts amendatory

thereof, and also to amend other acts relating to the city of Troy," and the acts amendatory of said chapter five hundred and ninety-eight, and to consolidate into one act several of the acts amending the charter of and other acts relating to the city of Troy and its departments, and to the inferior local courts therein,' in relation to the powers of the common council."

Assembly Bill No. 2011, entitled "An act to amend the tax law, in relation to the appointment of a transfer tax clerk in Nassau county."

Assembly Bill No. 1517 (Senate reprint No. 1568), entitled "An act to authorize the city of Mount Vernon to make an annual appropriation for the care and maintenance of the Mount Vernon Hospital."

Senate Bill No. 1261, entitled "An act to authorize the fire commissioners in certain fire districts in the county of Sullivan to issue certificates of indebtedness."

Senate Bill No. 1483, entitled "An act to amend section one hundred and five of article ten of chapter eighteen of the consolidated laws, in relation to notaries public."

Assembly Bill No. 2430, entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city, establishing a fund for pensioning retired school teachers and certain other employees and regulating the collection and management thereof.'"

Assembly Bill No. 2288, entitled "An act to amend chapter seventy-five of the laws of nineteen hundred and six, entitled 'An act to supplement the provisions of law relative to the department of assessment and taxation of the city of Syracuse.'"

Senate Bill No. 1084, entitled "An act to amend chapter five hundred and thirty-four of the laws of nineteen hundred and nine, entitled 'An act to authorize the comptroller and corporation counsel of the city of New York, on behalf of the said city, to compromise and settle with property owners interested, certain claims for taxes, assessments and sales for the same in

the territory formerly included within the boundaries of the towns of Newtown, Flushing, Jamaica and that portion of the town of Hempstead now included within the boundaries of the city of New York,' by defining what taxes, assessments and sales may be compromised and settled."

Assembly Bill No. 1986, entitled "An act to amend the election law, in relation to gaining or losing a residence."

Senate Bill No. 1343, entitled "An act to amend the penal law, in relation to frauds upon hospitals by patients therein."

Senate Bill No. 1415, entitled "An act to amend chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled 'An act constituting the charter of the city of Rochester,' in relation to the fire pension fund."

Assembly Bill No. 1508, entitled "An act to amend the forest, fish and game law, in relation to the use of scap nets."

Senate Bill No. 1229, entitled "An act to amend chapter one hundred and eighty-five of the laws of nineteen hundred and six, entitled 'An act to revise the charter of the city of Auburn,' in relation to corporation counsel."

Assembly Bill No. 1476, entitled "An act to amend the forest, fish and game law, in relation to the open season for woodcock on Long Island."

Assembly Bill No. 1955, entitled "An act to amend the highway law, in relation to sprinkling an improved state or county highway, and to the removal of filth and refuse therefrom."

Assembly Bill No. 2659, entitled "An act to amend the agricultural law, in relation to skimmed milk, skimmed milk cheese and milk powder."

Assembly Bill No. 1081, entitled "An act to amend chapter seven hundred and fifty-two of the laws of nineteen hundred and seven, entitled 'An act to revise the charter of the city of North Tonawanda,' in relation to the annual report of the board of public works."

Assembly Bill No. 2314, entitled "An act to amend chapter two hundred and sixty-eight of the laws of eighteen hundred and ninety-one, entitled 'An act in relation to the office of

sheriff in the county of Columbia,' in relation to the salary and disbursements of the sheriff."

Assembly Bill No. 2647, entitled "An act to amend the banking law, in relation to investments of capital."

Assembly Bill No. 1341, entitled "An act to amend the Indian law, generally."

Assembly Bill No. 2383, entitled "An act to amend the education law, in relation to the assessment of property for actual school district taxes."

Senate Bill No. 1603, entitled "An act to amend the election law, generally."

Senate Bill No. 1086, entitled "An act to amend the real property law, relative to the execution of certificates of payment and discharge of mortgages."

Senate Bill No. 1313, entitled "An act to amend the tax law, in relation to the compensation of recording officers for services in the collection of the recording tax on mortgages."

Assembly Bill No. 1647, entitled "An act to amend the tax law, in relation to the levy and collection of a poll tax."

Senate Bill No. 1322, entitled "An act to permit cities of the first, second and third classes to establish within their boundaries, districts with varying restrictions upon the heights of buildings thereafter erected, and upon the proportion of lot area to be covered by such buildings."

Senate Bill No. 1294, entitled "An act to amend the insurance law, in relation to the authority of persons negotiating fire insurance."

Senate Bill No. 503, entitled "An act to amend section two thousand seven hundred and eighteen of the code of civil procedure, in relation to the ascertainment of claims against decedent's estate."

Assembly Bill No. 166, entitled "An act to amend the election law, in relation to registration of voters for town and village elections."

Assembly Bill No. 1577, entitled "An act to amend the county law, in relation to time and manner of payment of the salary of the county judge in Niagara county."

Assembly Bill No. 1137, entitled "An act to provide for joining the people of the state of New York as a party defendant in the foreclosure of certain mortgages on land in the town of Newfane, Niagara county."

Senate Bill No. 915, entitled "An act to amend chapter one hundred and fifty-seven of the laws of eighteen hundred and forty-four, entitled "An act to incorporate the village of Mohawk," in relation to the cemetery commissioners of such village."

Senate Bill No. 1154, entitled "An act to amend the penal law, relative to sentences for murder in the first degree which have been commuted to life imprisonment."

Senate Bill No. 1639, entitled "An act to incorporate The World Bible League."

Assembly Bill No. 2340, entitled "An act to amend the code of criminal procedure, in relation to bail."

Assembly Bill No. 1435, entitled "An act to amend the county law, in relation to publication of the annual statement of the clerk of the board of supervisors."

Assembly Bill No. 654, entitled "An act to amend the agricultural law, in relation to actions against agricultural societies."

Assembly Bill No. 844, entitled "An act to amend the liquor tax law, in relation to qualification of voters on questions of local option."

Assembly Bill No. 2328 (Senate reprint No. 1681), entitled "An act to amend the agricultural law, in relation to inspection and sale of seeds."

Senate Bill No. 1285, entitled "An act to amend section nineteen hundred and three of the code of civil procedure, in relation to distribution of damages recovered."

Assembly Bill No. 2625, entitled "An act to amend the agricultural law."

• Assembly Bill No. 2592, entitled "An act to amend the general business law, in relation to trade marks."

Assembly Bill No. 2638, entitled "An act to incorporate the Rite of Adoption of the World, Order of the Amaranth."

Assembly Bill No. 297 (Senate reprint No. 1537), entitled "An act to amend the public health law, in relation to qualifications for the practice of veterinary medicine and surgery."

Assembly Bill No. 2496, entitled "An act to authorize the board of supervisors of the county of Fulton to purchase the Fulton county fair grounds."

Senate Bill No. 1046, entitled "An act to amend the public health law, in relation to burial and burial permits."

Senate Bill No. 1629, entitled "An act to extend the corporate existence of the Enterprise Land Company and to validate its conveyances of real estate."

Assembly Bill No. 1780, entitled "An act to amend the code of criminal procedure, in relation to release on bail in certain cases."

Assembly Bill No. 2283, entitled "An act to amend the code of civil procedure, relative to the service of summons."

Assembly Bill No. 463 (Senate reprint No. 1436), entitled "An act to amend the tax law, in relation to the exemption of property held by a municipal corporation for the treatment and disposal of sewage."

Senate Bill No. 529, entitled "An act to amend the forest, fish and game law, in relation to penalties."

Assembly Bill No. 2401, entitled "An act to amend the education law, in relation to the apportionment of school moneys."

Assembly Bill No. 504, entitled "An act to authorize the 'Middle Patent Rural Cemetery Association' to purchase or otherwise take and hold and dispose of additional land by and with the consent of the board of supervisors of the county of Westchester and authorizing said board of supervisors to grant such consent."

Assembly Bill No. 1607, entitled "An act to establish a ferry from and to Gunnison's landing in the town of Crown Point, Essex county, across Lake Champlain, to and from a point in the east shore of said Lake Champlain, in the town of Bridport, in the state of Vermont, called Brook's."

Assembly Bill No. 1247, entitled "An act to amend the

highway law, in relation to the descriptions of the routes of certain highways to be constructed or improved by the state."

Assembly Bill No. 951, entitled "An act to amend the code of civil procedure, in relation to notice of proceedings to appoint special guardian."

Assembly Bill No. 2299, entitled "An act to provide for the removal of the upper lock of the old Western Inland Lock Navigation Company at Little Falls, and for the preservation of the same and for other purposes, and to repeal chapter four hundred and forty-eight of the laws of eighteen hundred and eighty-three."

Assembly Bill No. 1141, entitled "An act to amend the domestic relations law, generally."

Senate Bill No. 1119, entitled "An act to amend the judiciary law, in relation to the salary of confidential clerks of the appellate division in the second department."

Assembly Bill No. 2574, entitled "An act to amend the code of civil procedure, relating to the examination by the surrogate of the county wherein the witnesses reside of the subscribing witnesses to a will offered for probate in another county."

Assembly Bill No. 2209, entitled "An act to amend the penal law, in relation to violation of certain provisions of the labor law."

Assembly Bill No. 1775, entitled "An act to amend the village law, in relation to powers of village trustees in respect to the support of hospitals and the care of village residents therein."

Senate Bill No. 1297, entitled "An act to amend the code of civil procedure, in relation to satisfaction of judgment."

Assembly Bill No. 2535, entitled "An act to amend the code of civil procedure, in relation to exemptions and executions."

Assembly Bill No. 1447, entitled "An act to amend the code of civil procedure, in relation to examining witnesses for aiding service of process in certain actions."

Assembly Bill No. 2308, entitled "An act to amend chapter three hundred and ninety-four of the laws of eighteen hun-

dred and ninety-five, entitled 'An act to revise the charter of the city of Oswego,' generally."

Assembly Bill No. 2075 (Senate reprint No. 1522), entitled "An act to amend the judiciary law, in relation to certain papers that may be destroyed."

Assembly Bill No. 352, entitled "An act in relation to the boundaries of the village of Briarcliff Manor."

Assembly Bill No. 2235, entitled "An act to amend the agricultural law, in relation to payment to owners for keep of condemned bovine animals."

Assembly Bill No. 1605, entitled "An act to amend the code of civil procedure, in relation to security upon sale by referee."

Senate Bill No. 1638, entitled "An act to amend chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled 'An act constituting the charter of the city of Rochester,' in relation to salaries."

Senate Bill No. 1287, entitled "An act to amend the code of civil procedure, in relation to judgments."

Assembly Bill No. 953, entitled "An act to amend the code of civil procedure, in relation to personal service of summons upon infants."

Assembly Bill No. 2595, entitled "An act to amend the code of criminal procedure, in relation to bail of children accused of minor offenses."

Senate Bill No. 1106, entitled "An act to amend the code of criminal procedure, in relation to bail."

Assembly Bill No. 773, entitled "An act to amend the insurance law, relative to exception of the fraternal order of the Deutscher Krieger Bund, New York, from certain of its provisions."

Assembly Bill No. 2648, entitled "An act to amend the village law, in relation to the dedication of streets."

Assembly Bill No. 2280, entitled "An act to legalize, ratify and confirm the proceedings of the town of North Elba in the adoption of the proposition to authorize the securing of site and erecting a town building in the west end of the town and

to raise and appropriate the sum of eight thousand dollars for such purpose and to issue bonds therefor, and to legalize the bonds of such town sold and awarded in pursuance thereof to the amount of eight thousand dollars and to provide for the payment of the same."

Assembly Bill No. 1675, entitled "An act to empower the electors of the town of Oswegatchie, in the county of Saint Lawrence, to vote an appropriation for the purchase of a site and the erection of a building to be used as a town house and lockup in that part of said town known as Heuvelton."

Assembly Bill No. 938, entitled "An act to amend the tax law, in relation to the salary of the transfer tax appraiser in Suffolk county."

Assembly Bill No. 2399 (Senate reprint No. 1622), entitled "An act to amend chapter four hundred and eighty-seven of the laws of nineteen hundred and six, entitled 'An act to equalize the salaries of the attendants and messengers of the surrogate's court in the county of New York with the salaries of the attendants of the supreme court in the first judicial district and the appellate division thereof in the first department,' in relation to the salaries of attendants and messengers of the surrogate's court of New York county."

Assembly Bill No. 2537, entitled "An act to amend chapter three hundred and six of the laws of nineteen hundred and seven, entitled 'An act to establish a retirement fund for the pensioning retired school teachers, superintendents, supervisors and heads of high school departments of the public schools of the city of Schenectady, and to regulate the collection, management and disbursements thereof,' in relation to contributions to such fund."

Assembly Bill No. 798, entitled "An act to make the office of supervisor in the county of Ulster a salaried office."

Assembly Bill No. 1831, entitled "An act to amend chapter one hundred and three of the laws of nineteen hundred and six, entitled 'An act to make the office of county clerk of Ulster county a salaried office, and regulating the management

of said office,' relative to the appointment of an additional assistant."

Assembly Bill No. 2522 (Senate reprint No. 1607), entitled "An act to amend chapter one hundred and sixteen of the laws of eighteen hundred and ninety-seven, entitled 'An act to make the office of county clerk of Washington county a salaried office, and regulating the management of said office.'"

Assembly Bill No. 2244 (Senate reprint No. 1434), entitled "An act to amend the agricultural law, relative to salary of commissioner."

Senate Bill No. 1657, entitled "An act to amend section ninety-four of the prison law, relative to compensation of assistant matrons at the state prison for women."

Assembly Bill No. 2246 (Senate reprint No. 1432), entitled "An act to amend the highway law, in relation to salaries."

Senate Bill No. 1317, entitled "An act to amend the prison law, in relation to compensation of certain officers."

Senate Bill No. 1298, entitled "An act to amend the insanity law, relative to wages of certain employees of state hospitals."

Assembly Bill No. 1328, entitled "An act to amend the election law, in relation to the powers, duties and salaries of the state superintendent of elections and his appointees."

Senate Bill No. 1589, entitled "An act to amend the public health law, in relation to the practice of undertaking and embalming and licensing of undertakers and embalmers."

Assembly Bill No. 2389, entitled "An act to amend the code of civil procedure, relating to the payment of money into court, and for the care and disposition thereof."

Assembly Bill No. 2433, entitled "An act to amend the agricultural law and the public health law, in relation to the adulteration or misbranding of food and food products."

(Signed) CHARLES E. HUGHES.

IV
MEMORANDA ON LEGISLATIVE BILLS
APPROVED

IV

MEMORANDA ON LEGISLATIVE BILLS APPROVED **Relating to the Erection of a New Courthouse in New** **York County**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, February 17, 1910.

Memorandum filed with Assembly Bill No. 252, entitled "An act to amend chapter three hundred and thirty-six of the laws of nineteen hundred and three, entitled 'An act to provide for the erection of a courthouse in the county of New York and authorizing the acquisition of a site therefor.'"

APPROVED.

This bill, relating to the erection of a new courthouse in New York county, removes certain restrictions with respect to the use of City Hall Park, and gives a wider discretion to the local authorities. The question of selecting a site for a new courthouse, which is sadly needed, should be determined as quickly as possible, and the local authorities should have such freedom as will enable them to deal with it in a prompt and satisfactory manner, according to their best judgment.

The bill is therefore approved.

(Signed) CHARLES E. HUGHES.

Tenure of Office of Veterans of the Spanish War and **of the Insurrection in the Philippines**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 9, 1910.

Memorandum filed with Senate Bill No. 249, entitled "An act to amend chapter fifteen of the laws of nineteen hundred and nine, entitled 'An act in relation to the civil service of the

state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws,' in relation to the power of removal."

APPROVED.

The opposition to this measure virtually goes to the extent of challenging the public policy of the provisions of the Civil Service Law (section 22) with regard to the tenure of office of the veterans therein described, requiring that a removal shall be for incompetency or misconduct after hearing upon stated charges.

Whatever may be said of this question, it is not really involved in this bill.

The object of the present bill is to destroy a discrimination which from any point of view is unjust and indefensible.

In 1899 the Legislature extended the provisions as to tenure of office to the veterans of the Spanish war, making no distinction between regulars and volunteers (Laws of 1899, chapter 370, section 21). In 1902 this provision was amended, making it to apply only to those who served in the "volunteer army or navy" during the Spanish war, and thus excluding those who were in the regular service and had the larger share of active duty. Many, so excluded, in fact volunteered for service in the regular army when it was recruited for the purposes of war. (Laws of 1902, chapter 270).

This bill puts regulars and volunteers upon the same footing, and also includes those who served in the incidental insurrection in the Philippines prior to July 4, 1902.

The bill is approved.

(Signed) CHARLES E. HUGHES.

Providing for the Expiration of the Terms of Office of the Five Appointive Members of the State Fair Commission and the Appointment of Five New Members for Terms of from One to Five Years

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 26, 1910.

Memorandum filed with Senate Bill No. 1545, entitled "An act to amend the agricultural law, in relation to the state fair commission."

APPROVED.

This bill amends the law so as to provide for the expiration of the terms of office of the five appointive members of the State Fair Commission on June 1, 1910, and for the appointment of five new members for terms of one, two, three, four and five years respectively. The terms of office of the present appointive members would otherwise all expire in April of next year. In view of the importance of the work of this commission, and particularly of the extensive plans of development now in progress, it is certainly advisable that the commissioners' terms of office should be so arranged that they will not all expire together and that there should be a desirable continuity of work and experience. The general policy of the State with respect to its commissions is to provide for successive expiration of terms so as to secure this continuity and at the same time permit changes in membership from year to year. It would have been well if this commission on its reorganization had been thus constituted, and if the change is ever to be made it may as well be made now.

The objection that this will deprive the next administration of a proper relation to the work of this commission is untenable.

The commission consists of seven members. One of its members, and its presiding officer, is the Lieutenant-Governor, and this office will be filled at the next general election. The relation of the Lieutenant-Governor to the commission is not

merely formal, but it has been the practice for him to take a very active part in its work.

Another important member of the commission is the Commissioner of Agriculture. The term of the present Commissioner of Agriculture will expire in April next, and the then Governor will have an opportunity to continue him in office, or to appoint his successor, as he may desire.

The terms of office of two of the remaining five members of the commission will under this bill expire in the next two years, one in 1911 and one in 1912, so that the next administration will next year have three places upon the commission, and four within two years.

In addition the bill provides that the Governor shall designate one of the members of the commission to act as superintendent of the Fair grounds and buildings during his term of office. I propose to appoint to this place Mr. A. E. Perren, whose efficiency in this work is generally recognized; but I shall give him the appointment for two years and his further continuance as superintendent will be determined by my successor.

The bill is therefore approved.

(Signed) CHARLES E. HUGHES.

Amending the Railroad Law so as to Provide for the Transfer of Property When the Existence of a Railroad Corporation Ceases

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 14, 1910.

Memorandum filed with Senate Bill, Introductory No. 1011, Printed No. 1494, entitled "An act to amend the railroad law so as to provide for the transfer of property when the existence of a railroad corporation ceases."

APPROVED.

In accepting this bill for the city of New York, the Mayor of the city has stated in his memorandum the circumstances

which led to its passage. The New York and Long Island Railroad Company having constructed a portion of its tunnel and road failed to complete it within the time prescribed by law. By reason of this default its corporate existence and powers ceased (Laws of 1890, chapter 565, section 5). The litigation between the city of New York and the directors of the company, as trustees of creditors and stockholders, failed and the questions involved were not finally decided, because the State was not a party. But in the opinion of the Court of Appeals the effect of the statute with respect to the default of the company was thus described:

“ Though the franchise to maintain the railroad was not dependent on the existence of the corporation, the statute provides not only that the corporate existence shall cease but the corporate powers also. In other parts of the statute is an enumeration of the powers conferred upon corporations organized under the act, to wit, to build their railroads, acquire land for that purpose, etc.; in other words, their franchises. When the legislature enacted that the powers of the corporation should cease, it intended thereby that in the same contingency the franchises conferred on the corporation should cease.” (City of New York v. Bryan, 196 N. Y. 158 on p. 166.)

It would seem clear that the franchise of the company to construct, maintain and operate the tunnel and road ended when it failed to comply with the statute. But it has been objected that this bill is an attempt in some way to revive it or to lend support to the claim that it can be transferred and exercised. The bill, however (being a general one, so as not to conflict with the constitutional provision as to a special act in such a case) in its references to franchises describes only such, if any there be, as “ *survive* ”, and the bill does not purport to recognize any franchise that has ended.

I therefore do not regard this bill as affording a foundation for the claim that the perpetual franchises of the defunct company, lost by its default, are recognized or revived.

In the brief filed with me, with respect to this bill, by the

Interborough Rapid Transit Company (representing what it calls "the controlling equity" in the property) its attorney explicitly states:

"The Act, however, does not revive or confirm the perpetual franchises formerly possessed by the New York and Long Island Railroad Company or authorize the completion or operation of the tunnel, otherwise than under a new franchise which can be granted only by the Board of Estimate and Apportionment for the usual limited period of fifty years, with or without a renewal of twenty-five years."

Further, the Board of Estimate and Apportionment, upon the application for the new franchise contemplated by the bill, may protect the city by proper terms against the assertion of a perpetual franchise, and the Mayor and the Public Service Commission may grant or withhold their consent to the transfer described in the bill, as the interests of the city may require. This is clearly pointed out by the Mayor of the city in his memorandum. He says:

"The substance of the bill is that the said property of the deceased company (including any rights or franchises which it had and which survive) is vested in the said trustees in liquidation, to enable them to transfer it to a new company, but only with the consent of the Mayor and of the Public Service Commission; said corporation to obtain a new franchise, i. e., from the Board of Estimate and Apportionment of the City of New York for the same route. This new franchise can only be for the usual limited period of fifty years, with or without a renewal of twenty-five years, that being all that the said board can grant. In this way the franchise in perpetuity which the deceased company originally had is abandoned and a new company with the said limited franchise is substituted. The bill provides that the said tunnel and railroad to the extent that it is completed, shall be deemed to have been constructed 'under and pursuant' to the said new franchise. In addition to this explicit provision, the Board of Estimate and Apportionment in granting the new franchise

may use additional language if necessary, and the Mayor and Public Service Commission may take like precaution to put beyond all dispute that the new franchise is given and accepted in extinguishment of the old one."

It is of the utmost importance that upon proper terms there should be a rapid expansion of the transit facilities of the city and I believe that by the just exercise of the powers granted by this bill the convenience and welfare of its citizens will be promoted. To delay an adjustment of the matter, under conditions which permit the authorities of the city properly to protect its interests, in order that there may be protracted litigation to settle the legal status of the completed tunnel, and thus to leave the tunnel unused for an indefinite time while the people are suffering for want of such facilities as it would in part provide, seems to me wholly unjustified.

I therefore approve the bill.

(Signed) CHARLES E. HUGHES.

An Act in Relation to Railroads, Constituting Chapter Forty-nine of the Consolidated Laws

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 14, 1910.

Memorandum filed with Senate Bill, Introductory No. 993, Printed No. 1507, entitled "An act in relation to railroads, constituting chapter forty-nine of the consolidated laws."

APPROVED.

The amendments of the Railroad Law, effected by the bills heretofore approved by me (Senate Bill, Printed No. 1468, and Senate Bill, Printed No. 1494, constituting respectively chapters 477 and 478 of the Laws of 1910), are not included in this consolidated law. These amendments are not repealed by this consolidated law, but are saved by the operation of section 100 of the General Construction Law, which provides that a chap-

ter of the consolidated law shall not be deemed to repeal an amendatory law passed at the same session of the Legislature, unless it is specifically designated in the repealing schedule.

In order that there may be a proper arrangement of the statutes, however, the consolidated law should be amended so as to include the amendments to which I have referred.

(Signed) CHARLES E. HUGHES.

Providing for the Improvement of the Lake George Battle Ground Park

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Senate Bill No. 39, entitled "An act to provide for the erection of a suitable iron fence around the monument erected by the Society of Colonial Wars on the Lake George battle ground park, owned by the state of New York; for the construction of a suitable footpath from the Lake George beach to the said monument; for the cleaning up of the paths and roads around the said park, and erection of boundary fences wherever necessary."

APPROVED.

I am informed that this appropriation is needed for the proper protection of the property.

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the Oriskany Creek Feeder

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 1299, entitled "An act to provide for the improvement of the Oriskany creek

feeder, in the town of Kirkland, Oneida county, and making an appropriation therefor."

APPROVED.

It appears from the facts submitted that this is a work which should be done by the State.

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the Construction of a Bridge Over the Erie Canal in the City of Rome

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 493 (Senate reprint No. 1538), entitled "An act to authorize the construction of a new iron bridge with double driveway and sidewalks over the Erie canal at South Washington street in the city of Rome and making an appropriation therefor."

APPROVED.

I am advised that this bridge over the Erie canal has practically been condemned and that a new and safe structure should be provided as quickly as possible.

(Signed) CHARLES E. HUGHES.

Making an Appropriation for the Construction of a Bridge Over the State Feeder in the City of Oneida

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 18, 1910.

Memorandum filed with Assembly Bill No. 2237, entitled "An act to provide for the construction of a stone or concrete bridge over the state feeder at Cedar street, in the city of Oneida, and making an appropriation therefor."

APPROVED.

I am advised that this bridge is a State structure and is unsafe.

(Signed) CHARLES E. HUGHES.

Amending the Education Law by Abolishing the Office of School Commissioner, Creating the Office of District Superintendent of Schools and Prescribing the Powers, Duties and Responsibilities of Such Superintendent

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 23, 1910.

Memorandum filed with Assembly Bill No. 2558, entitled "An act to amend the education law, by abolishing the office of school commissioner, creating the office of district superintendent of schools and prescribing the powers, duties and responsibilities of such superintendent."

APPROVED.

Section 2 of the bill provides as follows:

"§ 2. Sections three hundred and eighty-one and three hundred and eighty-two of this article hereby amended shall take effect on the first day of July, nineteen hundred and ten. Section three hundred and three of such article shall take effect on the first day of April, nineteen hundred and eleven. All other provisions of such article shall take effect on the first day of January, nineteen hundred and twelve."

The reference to section "three hundred and three of such article" is an error. Section three hundred and three is not in the article amended by the bill, and is not amended.

Section three hundred and *eighty-three* is amended and refers to what is to take place in the spring and summer of 1911, and later.

As no action is contemplated under section three hundred and eighty-three before the third Tuesday in May, 1911, there will be ample opportunity to have the statute corrected. I am advised that with respect to other features of the bill it is important that it be approved.

(Signed)

CHARLES E. HUGHES.

Amending the Forest, Fish and Game Law Generally

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 24, 1910.

Memorandum filed with Senate Bill No. 1590 (Assembly reprint No. 2658), entitled "An act to amend the forest, fish and game law, generally."

APPROVED.

This bill contains many amendments of the Forest, Fish and Game Law. While some of these are of minor consequence, others are important to provide further protection for the rights of the State and to carry out the policy of the law. The bill is therefore approved.

There has been strong objection to one of the amendments of the bill, striking out the provision in section 109 that "whitefish less than two pounds in the round shall not be taken from any of the waters of the state or possessed at any time." The objection to this amendment I believe to be well founded. There is, however, another bill (Assembly Bill No. 1625) which simply amends section 109 in a minor particular and leaves intact the provision above quoted relating to whitefish. My subsequent approval of this latter bill will restore the prohibition as to taking whitefish less than two pounds in the round and obviate the objection to the general bill.

(Signed) CHARLES E. HUGHES.

In Relation to the Inferior Courts of Criminal Jurisdiction in the City of New York, Defining Their Powers and Jurisdiction and Providing for Their Officers

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2240 (Senate reprint No. 1482), entitled "An act in relation to the inferior courts of criminal jurisdiction in the city of New York, de-

fining their powers and jurisdiction and providing for their officers."

APPROVED.

This bill provides for important reforms in connection with the inferior courts of criminal jurisdiction in the city of New York. The wisdom of some of the proposals has been challenged, but they are the result of painstaking study by the commission appointed for the purpose, of a most difficult subject, and the city of New York should not be denied the right to avail itself of the tests and experience which the bill will permit.

My attention has been called to the provision of section 96 of the bill (with respect to probation officers) that "the chief probation officers and all other probation officers shall be deemed the confidential officers of the justices and magistrates."

It is suggested that the use of the word "confidential" will have the result of putting the probation officers in the exempt class under the provisions of the Civil Service Law. The State Civil Service Commission, however, in the light of their experience, advise me that in their view this language of the bill "would not make it necessary to classify the positions as exempt from examination." They have maintained that the question of classification is governed by the duties of the position rather than its title, and they inform me that their experience would justify the placing of the positions in question in the competitive class. They say: "Probation officers have been appointed in cities and counties throughout the State as the result of open competitive examinations and with entirely satisfactory results." They further point out that although the Liquor Tax Law states that the special agents of the State Commissioner of Excise "shall be deemed the confidential agents of the State Commissioner," still these agents "have been retained in the competitive class with the entire approval of the Commissioner of Excise and to the manifest advantage of the public service."

I do not approve such characterizations of positions by legislative acts ; but I believe that where the duties of the position and the facts of experience attest the practicability of competitive examinations, these should, and may, still be required.

In view of the vast importance of the work of the inferior courts of criminal jurisdiction in the city of New York, and of the great value of this bill taken as a whole, I approve it.

(Signed) CHARLES E. HUGHES.

Amending the Labor Law in Relation to Workmen's Compensation in Certain Dangerous Employments

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 1208, entitled "An act to amend the labor law, in relation to workmen's compensation in certain dangerous employments."

APPROVED.

The Commission appointed under chapter 518 of the Laws of 1909 to inquire into the subject of employers' liability, after exhaustive study of the difficult questions involved, has made recommendations for legislation along two lines. First, amendments have been proposed to existing law, coupled with an elective compensation plan. The bill embodying this recommendation has been approved. Second, a plan of compulsory compensation, applicable to certain dangerous employments, is presented by the present bill. It contains the proposals of the Commission as amended in certain particulars by the Legislature.

The importance of providing a suitable scheme of compensation for industrial accidents and of avoiding the shocking waste and injustice of our present methods must be conceded by all open-minded students of industrial conditions. It is difficult to devise any method of compensation which will not

be visited with severe criticism and a satisfactory solution of the problem can only be reached by experimentation.

The proposals of the Commission have been criticised by some on the ground that they do not go far enough and by others because they go too far. While avoiding extremes, the Commission has sought to afford a scheme of compensation through the testing of which the State may find a basis for the establishment of its policy.

With respect to the objections urged before me as to the validity of certain features of the bill, I believe that the questions thus raised should be left to the determination of the courts. In this way only can there be an authoritative determination with respect to the measures that are within the limits of legislative power and a suitable shaping, in the light of judicial decisions, of the policy of the State with respect to compensation for industrial accidents.

(Signed) CHARLES E. HUGHES.

Placing Telegraph Corporations and Telephone Corporations Under the Jurisdiction of the Public Service Commission

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2541, entitled "An act to amend the public service commissions law, in relation to telegraph and telephone lines and companies."

APPROVED.

This bill places telegraph corporations, and telephone corporations (except those having property used in the public service within the State of value not exceeding \$10,000) under the jurisdiction of the Public Service Commission, and thus extends to this class of corporations the established policy of the State.

The bill as a whole should be approved. There are certain

matters of importance, however, with respect to which the bill is open to criticism.

First. The entire jurisdiction over these companies is placed with the Public Service Commission of the Second District. The convenience of administration would be promoted, in my judgment, if the jurisdiction, particularly with respect to telephone corporations, were divided between the two commissions as in the case of railroads, and gas and electrical corporations.

Second. The bill does not give a sufficiently wide control over the issue of securities. It provides: "No telegraph corporation or telephone corporation shall be required, however, to apply to the commission for authority to issue stocks, bonds, notes or other evidence of indebtedness except for the acquisition of property, the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service within the state, or the discharge or refunding of obligations, or reimbursement of moneys actually expended for such purposes." The issues of securities by domestic corporations of this class should be subject to the approval of the Public Service Commission whether the money is to be expended within or without the State. With respect to corporations of its own creation, this State should exercise complete supervision. As to this second matter particularly, amendatory legislation should be had.

(Signed) CHARLES E. HUGHES.

**Amending the General Municipal Law so as to Provide
That a Funded Debt May Be Contracted by a City of
the Second Class for School Buildings**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 1233, entitled "An act to amend section six of chapter twenty-nine, laws of nine-

teen hundred and nine, being the general municipal law, entitled 'An act relating to municipal corporations, constituting chapter twenty-four of the consolidated laws,' in relation to funded debts."

APPROVED.

This bill amends the General Municipal Law so as to provide that a funded debt may be contracted by a city of the second class for the building of a school building, or for the construction or reconstruction of a school building by a majority vote of all the members elected to the common council adopting it. The amendment is designed to facilitate the construction of schoolhouses and, limited in this way, it is not opposed to sound policy. As the Commissioner of Education says, "There is no danger of a common council going further than it ought in providing school accommodations."

(Signed) CHARLES E. HUGHES.

Providing for the Preservation, Indexing and Restoration of the Records in the Office of the Register of the County of New York

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2357, entitled "An act to provide for the preservation, indexing, restoration and placing in good condition of the records, documents, books, maps and papers deposited, filed or recorded in the office of the register of the county of New York."

APPROVED.

This is to provide for the preservation, indexing, restoration, et cetera, of the records in the office of the register of the county of New York. Duties are imposed upon the register which he must discharge to the extent of the facilities provided. Whether or not any additional provision shall be

made, and the allowance of any moneys for the purpose, must be determined, under the bill, by the Board of Estimate and Apportionment.

(Signed) CHARLES E. HUGHES.

Conferring Various Powers upon the Officers of the Cities of Auburn and New York

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with the bills specified below, which are respectively approved, to wit:

Senate Bill No. 1565, entitled "An act to amend chapter one hundred and eighty-five of the laws of nineteen hundred and six, entitled 'An act to review the charter of the city of Auburn,' in relation to lighting districts in such city."

Senate Bill No. 1566, entitled "An act to amend the Greater New York charter, in relation to restricting the use of Ocean boulevard in the borough of Brooklyn, in the city of New York."

Assembly Bill No. 2342, entitled "An act to amend the Greater New York charter, relative to vacations of employees."

These bills which have been accepted by the cities respectively, confer powers upon the officers of the cities which they should have. It may be objected that it would be better to have broad grants of power embracing the described purposes instead of these specific provisions. But this, in the light of the present form of our charters, cannot be regarded as a sufficient ground for disapproving the bills.

(Signed) CHARLES E. HUGHES.

Providing for the Redemption by Washington Cemetery of Certain Lands in Towns Formerly Known as Gravesend and New Utrecht in the County of Kings

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2453, entitled "An act to authorize the comptroller to hear and determine the application of Washington cemetery for the redemption of certain lands in the towns formerly known as Gravesend and New Utrecht in the county of Kings from the sale thereof by the comptroller for unpaid assessments."

APPROVED.

The interest of the State in this bill justifies its approval and takes it out of the objections pertaining to special legislation of this class. The premises concerned are burial grounds in which many thousands of burials have been made. The State cannot use the land, and provision should be made for its redemption.

(Signed) CHARLES E. HUGHES.

Amending the Executive Law in Relation to the Salaries of Certain State Officers

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 1513, entitled "An act to amend the executive law, in relation to the salaries of certain state officers."

APPROVED.

This bill raises the salary of the Secretary of State from \$5,000 to \$6,000; of the Comptroller from \$6,000 to \$8,000; of the State Treasurer from \$5,000 to \$6,000; of the Attorney-General from \$5,000 to \$10,000, and of the State Engineer and Surveyor from \$5,000 to \$8,000.

These are all elective officers and as the bill does not take effect until January 1, 1911, it affects only the officers who are to be elected at the next general election.

The salaries of these State officers have been altogether too low.

(Signed) CHARLES E. HUGHES.

Amending the Executive Law, in Relation to the Appointment, Term and Salary of the State Superintendent of Weights and Measures

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 1286, entitled "An act to amend the executive law, in relation to the appointment, term and salary of the state superintendent of weights and measures."

APPROVED.

The office of the Superintendent of Weights and Measures for a long period amounted to practically nothing. The compensation attached to it was \$300 a year. The present incumbent has made the office one of great importance and is discharging his duties with conspicuous fidelity. Under the appropriation bill of last year he is receiving a salary of \$2,500. In view of the wording of the appropriation bill of this year he will go back to a salary of \$300 if the present bill be not signed.

The salary fixed by the present bill is not excessive.

(Signed) CHARLES E. HUGHES.

Amending Chapter Forty-seven of the Laws of Nineteen Hundred and Nine in Relation to the Salaries of the Members of the Board of Parole for State Prisons and the Meetings of Such Board

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 557, entitled "An act to amend chapter forty-seven of the laws of nineteen hundred and nine, entitled 'An act relating to prisons, constituting chapter forty-three of the consolidated laws,' in relation to the salaries of the members of the board of parole for state prisons and the meetings of such board."

APPROVED.

The work of the Board of Parole has been largely increased. The provision for indeterminate sentences, permitting parole at the expiration of the minimum terms, has been extended so as to cover generally first offenders in State prisons. The success of the parole system will depend on the fidelity with which the work of the Parole Board is executed.

We cannot expect to be able to secure and hold the services of efficient men for this important work, considering the increased labor and time required, by the payment of a less amount than that provided for by this bill.

(Signed) CHARLES E. HUGHES.

Amending the Liquor Tax Law, in Relation to Places in Which Traffic in Liquors Shall Not Be Permitted

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Senate Bill No. 1323, entitled "An act to amend the liquor tax law, in relation to places in which traffic in liquors shall not be permitted."

APPROVED.

This bill excepts from the provisions of the Liquor Tax Law, with respect to premises within one-half mile of a poorhouse, a

place lawfully occupied for a hotel on March 23, 1896, when the law was first enacted. It provides, with respect to this, the same policy which the law has provided as to premises within two hundred feet of a church or schoolhouse.

(Signed) CHARLES E. HUGHES.

Amending the Highway Law in Relation to Damages for Change of Grade

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

Memorandum filed with Assembly Bill No. 2417, entitled "An act to amend the highway law, in relation to damages for change of grade."

APPROVED.

This bill provides for the payment of interest upon awards of damages due to changes of grade in highways. At common law the owner of land abutting upon a public street is not entitled to consequential damages for an injury he may suffer by reason of a lawful change in the grade of the street upon which his property abuts. But it is obvious that the change of grade may subject him to actual loss, and to remedy the apparent injustice which resulted from the common law rule, statutes have been passed allowing damages for changes in grade. By a recent decision of the Court of Appeals it has been held that such awards of damages do not carry interest because the statutes have not expressly provided for interest. This bill is to remedy the defect in the statutes.

It has been objected to the bill that as in certain cases grades have been changed before the law authorizing the payment of damages was enacted, interest would be payable when by reason of want of authority to pay damages, there had been for a considerable time no default in payment. But this is not a sound objection, for the policy should be to compensate the owner for the loss he has actually sustained, and this is not done if he is paid simply the principal of the loss sustained at the time the

injury was wrought, without interest from that time to the time of payment of the award.

It is also suggested that the provision of the bill that interest should run "from the time of the change of grade," might possibly refer to the time when the new grade was legally provided for as distinguished from the time when the physical change was effected. But as there is no taking of property in such a case, and the recovery must be for the actual damage sustained, interest could not properly run from an earlier date; and the language of the bill taken in connection with its subject and the context must be taken to provide for the payment of damages from the time the change of grade is actually made. I regard the bill as an act of justice.

(Signed)

CHARLES E. HUGHES.

V

EMERGENCY MESSAGES

V

EMERGENCY MESSAGES

Messages certifying to the necessity of the immediate passage of specified Senate and Assembly bills, in compliance with section 15 of of article III of the Constitution, were sent to the Legislature of 1910 from time to time by Governor Hughes. The measures to which the messages applied were as follows:

March 16. Senate Bill, Introductory No. 440, Printed No. 631, entitled "An act to incorporate section three hundred and fifteen of article fifteen of chapter two hundred forty-one of the laws of nineteen hundred and five into the tax law as section two hundred and seventy thereof."

April 15. Senate Bill, Introductory No. 857, Printed No. 1056, entitled "An act providing for the issuing of bonds of the state to run for a period of fifty years in lieu of bonds heretofore authorized by chapter three hundred and ninety-one of the laws of nineteen hundred and nine, but not issued."

May 2. Senate Bill, Introductory No. 1075, Printed No. 1349, entitled "An act to prescribe the method by which and the terms and conditions under which shall be determined the amount of any debt incurred by the city of New York for any rapid transit or dock investment prior to the first day of January, nineteen hundred and ten, which may be excluded in ascertaining the power of the city of New York to become otherwise indebted, pursuant to the provisions of section ten of article eight of the constitution, and to confer jurisdiction on the appellate division of the supreme court in the first judicial department to determine the amount of any debt to be so excluded," as amended.

May 17. Assembly Bill No. 1929 (Senate reprint No. 1588), entitled "An act in relation to public service commissions, constituting chapter forty-eight of the consolidated laws."

May 19. Assembly Bill No. 1977 (Senate reprint No. 1605), entitled "An act to amend the highway law, by repealing article eleven thereof and inserting a new article eleven, in relation to motor vehicles."

May 24. Assembly Bill No. 2553 (Senate reprint No. 1660), entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations."

May 24. Assembly Bill No. 2347 (Senate reprint No. 1606), entitled "An act to amend the general business law, relative to employment agencies," as amended.

May 24. Assembly Bill No. 1452 (Senate reprint No. 1644), entitled "An act to amend the insurance law, relative to the purposes for which certain insurance companies may be incorporated."

May 24. Assembly Bill No. 1521 (Senate reprint No. 1645), entitled "An act to amend the insurance law, in relation to persons, partnerships or associations engaging in the business of insurance as Lloyds or inter-insurers."

May 25. Assembly Bill No. 2660, entitled "An act to establish a hospital commission for the city of Yonkers, and to provide for the care of persons in said city suffering from tuberculosis in advanced stages."

May 25. Senate Bill, Introductory No. 1173, Printed No. 1673, entitled "An act for the removal to the supreme court of cases pending in the county court in counties having a population of one million or over."

May 26. Senate Bill, Introductory No. 1171, Printed No. 1667, entitled "An act to legalize the acts of the board of trustees of the village of Liberty, Sullivan county, in appointing the members of the village board of health."

May 26. Assembly Bill, Introductory No. 1753, Printed No. 2676, entitled "An act to amend chapter four of the laws of eighteen hundred and ninety one, entitled 'An act to provide for rapid transit railways in cities of over one million inhabitants,' relative to contracts for equipment, maintenance and operation of railroads, to allow cities to reserve the right to permit the use thereof by other persons, firms and corporations and by the municipality itself."

May 26. Assembly Bill No. 2328 (Senate reprint No. 1670), entitled "An act to amend the agricultural law, in relation to inspection and sale of seeds," as amended.

May 26. Senate Bill, Introductory No. 1178, Printed No.

1678, entitled "An act authorizing the city of Lockport to raise money for the maintenance of a dispensary for the examination and treatment of tuberculosis."

May 26. Senate Bill, Introductory No. 1174, Printed No. 1674, entitled "An act authorizing the city of Lockport to raise money for fire purposes and public amusement."

May 26. Assembly Bill, Introductory No. 795, Printed No. 2347 (Senate reprint No. 1606), entitled "An act to amend the general business law, relative to employment agencies," as amended.

May 26. Senate Bill, Introductory No. 1129, Printed No. 1609, entitled "An act to amend the election law, in relation to nominations and primaries," as amended.

May 26. Senate Bill, Introductory No. 1179, entitled "An act to amend the forest, fish and game law, in relation to the taking of grouse and quail in Dutchess county."

May 27. Assembly Bill No. 1023 (Senate reprint No. 1371), entitled "An act making appropriations for the support of government," as amended.

May 27. Assembly Bill No. 2553 (Senate reprint No. 1660), entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations," as amended.

May 27. Senate Bill, Introductory No. 1180, Printed No. 1679, entitled "An act to provide for the printing, publication and distribution of the consolidated public service commissions law, the consolidated railroad law and the education law, as amended."

EXTRAORDINARY SESSION.

June 30. Senate Bill, Introductory No. 1, Printed No. 1, entitled "An act to amend the election law, in relation to nominations and primaries," as amended.

July 1. Assembly Bill, Introductory No. 12, Printed No. 21, entitled "An act to amend the tax law, in relation to taxable transfers."

July 1. Assembly Bill, Introductory No. 20, entitled "An act making an appropriation for the expenses of the extraordinary session of the legislature convened by the governor June twentieth, nineteen hundred and ten."

VI

APPOINTMENTS

VI

APPOINTMENTS

Executive

SECRETARY TO THE GOVERNOR.

- July 1. George Curtis Treadwell of Albany to succeed Robert H. Fuller, resigned.

COUNSEL TO THE GOVERNOR.

- Jan. 5. Roger P. Clark of Binghamton to succeed Carlos C. Alden, resigned.

MILITARY SECRETARY.

- July 2. Frederick Melvin Crossett of New York city to succeed George Curtis Treadwell, resigned.

A MEMBER OF THE COMMISSION TO ACQUIRE A SITE FOR THE NEW YORK STATE TRAINING SCHOOL FOR BOYS.

- Jan. 14. Joseph C. Baldwin, Jr., of Mount Kisco to succeed Dennis McCarthy, resigned. No stated term.

THE ADJUTANT-GENERAL OF THE STATE OF NEW YORK.

- June 1. William Verbeck of Manlius to succeed Nelson Herrick Henry, who was withdrawn from active service on his own request and placed upon the retired list.

A TRUSTEE OF THE NEW YORK AGRICULTURAL EXPERIMENT STATION.

- Feb. 28. Lewis L. Morrell of Kinderhook to succeed himself, term expired. For a term to expire December 31, 1912.

- April 7. Lewis L. Morrell of Kinderhook to succeed himself, failed to qualify. For a term to expire December 31, 1912.

MEMBERS OF THE COMMISSION ON NEW PRISONS.

- May 26. John C. West of New York city to succeed Samuel J. Barrows, deceased.
- May 26. George S. Skiff, M. D., of Gainesville to succeed Charles F. Howard, M. D., resigned. No stated term.

A MEMBER OF THE BRONX PARKWAY COMMISSION.

- July 25. William White Niles of New York city reappointed for a term to expire July 25, 1915.

APPOINTIVE MEMBERS OF THE STATE PROBATION COMMISSION.

- Sept. 16. Alphonso Trumpbour Clearwater of Kingston reappointed for a term to expire July 1, 1913.
- Sept. 16. Edmond J. Butler of New York city to succeed Charles F. McKenna, term expired, for a term to expire July 1, 1914.
- Oct. 4. Edward C. Blum of the borough of Brooklyn, New York City, to succeed Frank E. Wade, resigned, for a term to expire July 1, 1912.

FOREST, FISH AND GAME COMMISSION.

- Oct. 5. H. Leroy Austin of Catskill to succeed James Spencer Whipple, resigned. Recess appointment requiring confirmation.

MEMBERS OF PERRY'S VICTORY CENTENNIAL COMMISSION

(Pursuant to Concurrent Resolution of the Senate and Assembly, January 26-27, 1910.)

- July 20. Ogden P. Letchworth of Buffalo, George D. Emerson of Buffalo, John T. Mott of

Oswego, Clinton Bradford Herrick, M. D., of Troy and Henry Harmon Noble of Essex.

This commission will co-operate with those appointed by several other States in celebrating the anniversary of the victory of Commodore Oliver Hazard Perry at the battle of Lake Erie in the War of 1812, which will be held at Put-in-Bay Island, Lake Erie, Ohio, in 1913.

MEMBERS OF THE ANDERSONVILLE PRISON MONUMENT COMMISSION (Chapter 206, Laws of 1910).

July 21. Isaac M. Foster of Port Ewen, Silas G. Burdick of Cuba, and Robert B. McCully of New York city. No stated term.

MEMBERS OF THE BOARD OF EMBALMING EXAMINERS OF THE STATE OF NEW YORK.

- Oct. 5. William J. Phillips of Albany reappointed for a term to expire December 5, 1910
- Oct. 5. Cornelius F. Burns of Troy reappointed for a term to expire December 5, 1910
- Oct. 5. Lemuel A. Jeffreys of Rochester reappointed for a term to expire December 5, 1911
- Oct. 5. Frederick Hulberg of New York reappointed for a term to expire December 5, 1912
- Oct. 5. Charles F. Moadinger, Jr., of the borough of Brooklyn reappointed for a term to expire December 5, 1912

DISTRICT ATTORNEY — GREENE COUNTY.

- Jan. 5. H. Leroy Austin of Catskill as district attorney of and for the county of Greene to fill the vacancy caused by the resignation of Pierre S. Jennings.

COUNTY CLERK — DELAWARE COUNTY.

- Feb. 10. James K. Penfield of Delhi as county clerk of and for the county of Delaware to fill the vacancy caused by the death of Charles Herring.

CORONER — CHEMUNG COUNTY.

- Feb. 14. Raymond A. Turnbull, M. D., of Elmira as a coroner of and for the county of Chemung to fill the vacancy caused by the death of John A. Westlake.

CORONER — DELAWARE COUNTY.

- Feb. 28. Thomas L. Craig, M. D., of Davenport as coroner of and for the county of Delaware, who was elected in November, 1909, and failed to qualify.

CORONER — ONTARIO COUNTY.

- March 24. Alfred W. Armstrong of Canandaigua as a coroner of and for the county of Ontario to fill the vacancy caused by the resignation of Patrick M. Donovan.

TRUSTEES OF THE SUPREME COURT LIBRARY AT TROY.

- Oct. 5. William J. Roche of Troy reappointed for a term to expire December 30, 1911
Oct. 5. Michael A. Tierney of Troy reappointed for a term to expire December 30, 1912

TRUSTEE OF THE SUPREME COURT LIBRARY AT WHITE PLAINS.

- Oct. 5. John F. Brennan of Yonkers reappointed for a term to expire December 30, 1914

Governor and Senate

STATE COMMISSIONER IN LUNACY.

- Feb. 17. William Cary Sanger of Sangerfield to succeed William L. Parkhurst, term expired, for a term to expire December 31, 1914. Confirmed February 17.

FISCAL SUPERVISOR OF STATE CHARITIES.

- Jan. 13. Dennis McCarthy of Syracuse reappointed for a term to expire June 9, 1912. Confirmed January 19.

COMMISSIONERS OF THE STATE BOARD OF CHARITIES.

- March 4. John W. Hogan of Syracuse to succeed Dennis McCarthy, resigned, for a term to expire March 23, 1915. Confirmed March 11.
- May 26. Richard L. Hand of Elizabethtown reappointed for a term to expire March 23, 1918. Confirmed May 27.
- May 26. Frank A. Fetter of Ithaca to succeed Ralph W. Thomas, resigned, for a term to expire March 23, 1914. Confirmed May 27.
- Sept. 20. Frank A. Fetter of Ithaca to succeed himself, failed to qualify. Recess appointment requiring confirmation.
- Oct. 4. Joshua M. Van Cott, M.D., of the borough of Brooklyn to succeed Annie G. Bolton, deceased. Recess appointment requiring confirmation.

TRUSTEES OF THE STATE SCHOOL OF AGRICULTURE AT MORRISVILLE.

- May 5. John A. Stewart of New York city reappointed for a term to expire November 16, 1914. Confirmed May 6.
- May 5. Fitch Gilbert, Jr., of Gilbertsville reappointed for a term to expire November 16, 1914. Confirmed May 6.

SUPERINTENDENT OF BANKS.

- Jan. 13. Orion Howard Cheney of New York city reappointed for a term to expire May 9, 1911. Confirmed January 19.

AGENT OF THE ONONDAGA INDIANS RESIDING ON THE ONONDAGA RESERVATION.

- May 5. Oliver Nichols of South Onondaga reappointed for a term to expire April 26, 1911. Confirmed May 6.

PORT WARDENS OF THE PORT OF NEW YORK.

- May 27. Christopher Marsden of Elmhurst to succeed Robert T. Courtney for a term to expire December 5, 1910. Confirmed May 27.
- May 27. Marcus Braun of New York city to succeed James F. Pegnan for a term to expire July 14, 1913. Confirmed May 27.
- May 27. George E. Beckwith of the borough of Brooklyn to succeed Harry Jaquillard for a term to expire March 30, 1913. Confirmed May 27.
- May 27. Michael H. Blake of New York city to succeed Henry Bradt for a term to expire May 18, 1913. Confirmed May 27.
- May 27. Jerome B. Johnson of Oyster Bay reappointed for a term to expire April 28, 1911. Confirmed May 27.
- May 27. Henry O. Appleby of the borough of Brooklyn to succeed Michael Hines for a term to expire April 18, 1911. Confirmed May 27.
- May 27. Charles H. Hemingway of Mount Vernon to succeed Richard O'Brien for a term to expire May 13, 1912. Confirmed May 27.
- May 27. Morris Levy of New York city to succeed Charles S. Adler for a term to expire March 16, 1913. Confirmed May 27.

- May 27. John H. Gunner of New York city reappointed for a term to expire March 16, 1913. Confirmed May 27.

COMMISSIONERS OF PRISONS.

- May 26. Simon P. Quick of Windsor reappointed for a term to expire June 21, 1913. Confirmed May 26.
- May 26. Edgar A. Newell of Ogdensburg reappointed for a term to expire June 21, 1913. Confirmed May 26.
- May 26. Francis C. Huntington of New York city reappointed for a term to expire June 21, 1914. Confirmed May 26.
- May 26. Henry Solomon of New York city reappointed for a term to expire June 21, 1914. Confirmed May 26.
- May 26. Frank E. Wade of Buffalo to succeed Charles F. Howard, M.D., resigned, for a term to expire June 21, 1911. Confirmed May 26.

PUBLIC SERVICE COMMISSIONER — FIRST DISTRICT.

- Jan. 27. Milo Roy Maltbie of New York city reappointed for a term to expire February 1, 1915. Confirmed January 27.

PUBLIC SERVICE COMMISSIONERS — SECOND DISTRICT.

- Jan. 27. Martin S. Decker of New Paltz reappointed for a term to expire February 1, 1915. Confirmed January 27.
- Jan. 27. John N. Carlisle of Watertown to succeed Thomas Mott Osborne, resigned, for a term to expire February 1, 1911. Confirmed January 27.

STATE FAIR COMMISSIONERS — (Chapter 366, Laws of 1910.)

- May 27. William Pitkin of Rochester for a term to expire June 1, 1911. Confirmed May 27.

- May 27. Abraham E. Perren of Buffalo, who is also appointed as superintendent of fair grounds and buildings for a term to expire June 1, 1912. Confirmed May 27.
- May 27. Ira Sharp of Lowville for a term to expire June 1, 1913. Confirmed May 27.
- May 27. De Forest Settle of Syracuse for a term to expire June 1, 1914. Confirmed May 27.
- May 27. Charles A. Wieting of Cobleskill for a term to expire June 1, 1915. Confirmed May 27.

A. STATE TAX COMMISSIONER.

- April 26. Benjamin E. Hall of New York city reappointed for a term to expire December 31, 1912. Confirmed April 26.

COMMISSIONERS OF THE PALISADES INTERSTATE PARK.

- Jan. 31. D. McNeely Stauffer of Yonkers reappointed for a term to expire February 12, 1915. Confirmed January 31.
- Jan. 31. Edwin A. Stevens of Hoboken, N. J., reappointed for a term to expire February 12, 1915. Confirmed January 31.

UNIFORMITY OF LEGISLATION COMMISSION.

- Jan. 13. Carlos C. Alden of Buffalo to succeed Adelbert Moot, failed to qualify. No stated term. Confirmed January 19.

TRUSTEES OF WASHINGTON'S HEADQUARTERS.

- May 26. Alenson Y. Weller of Newburgh reappointed for a term to expire April 1, 1915. Confirmed May 26.
- May 26. Michael Salley, D. D., of Newburgh to succeed Howard Thornton, for a term to expire April 1, 1915. Confirmed May 26.

STATE WATER SUPPLY COMMISSIONER.

- May 26. Robert H. Fuller of Albany to succeed Ernst J. Lederle, resigned, for a term to expire June 5, 1914. Confirmed May 26.

A MEMBER OF THE ADVISORY BOARD OF CONSULTING ENGINEERS.

- Jan. 13. Joseph Ripley of Albany reappointed. No stated term. Confirmed January 19.

A HELLGATE PILOT.

- Feb. 28. J. Walworth Horton of New York city. No stated term. Confirmed March 10.

COMMISSIONERS OF THE STATE RESERVATION AT SARATOGA SPRINGS.

- Jan. 24. Benjamin F. Tracy of New York city to succeed Edwin F. Shepard, resigned, for a term to expire January 25, 1915. Confirmed January 25.
- Jan. 24. George Foster Peabody of Lake George to succeed Spencer Trask, deceased, for a term to expire January 25, 1915. Confirmed January 25.
- Jan. 24. Frank N. Godfrey of Olean reappointed for a term to expire May 29, 1914. Confirmed January 25.

MEMBERS OF THE BOARD OF TRUSTEES OF CORNELL UNIVERSITY.

- Jan. 13. Almon R. Eastman of Waterville reappointed for a term to expire commencement week, 1911. Confirmed January 26.
- Jan. 13. Thomas B. Wilson of Halls Corners reappointed for a term to expire commencement week, 1912. Confirmed January 26.

- Jan. 13. Henry W. Sackett of New York city reappointed for a term to expire commencement week, 1913. Confirmed January 26. *
- Jan. 13. Frederick C. Stevens of Attica reappointed for a term to expire commencement week, 1914. Confirmed January 26.
- Jan. 13. John N. Carlisle of Watertown reappointed for a term to expire commencement week, 1910. Confirmed January 26.
- May 5. John N. Carlisle of Watertown reappointed for a term to expire commencement week, 1915. Confirmed May 6.

LOAN COMMISSIONERS.

- Jan. 13. Essex county — C. Arthur Otis of Wilmington reappointed for a term to expire October 11, 1911. Confirmed January 19.
- Jan. 13. Columbia county — Wesley Bathrick of Gallatin reappointed for a term to expire October 26, 1911. Confirmed January 19.

COUNTY TREASURER — FRANKLIN COUNTY.

- May 13. Burton L. Reynolds of Malone as county treasurer of and for the county of Franklin, to fill the vacancy caused by the death of Frank L. Carpenter. Confirmed May 13.

STATE HOSPITALS

MANAGERS OF THE BINGHAMTON STATE HOSPITAL.

- Feb. 28. Jervis Langdon of Elmira reappointed for a term to expire December 31, 1916. Confirmed February 28.
- May 17. Jonas M. Kilmer of Binghamton to succeed Jerome De Witt, resigned, for a term to expire December 31, 1910. Confirmed May 18.
- Aug. 18. William W. Farley of Binghamton to succeed Jonas M. Kilmer, failed to qualify. Recess appointment requiring confirmation.

MANAGER OF THE BUFFALO STATE HOSPITAL.

- Feb. 1. Andrew V. V. Raymond, D. D., of Buffalo to succeed William C. Krauss, deceased, for a term to expire December 31, 1916. Confirmed February 2.

MANAGERS OF THE CENTRAL ISLIP STATE HOSPITAL.

- Jan. 13. Richard O'Gorman of New York city reappointed for a term to expire December 31, 1912. Confirmed January 26.
- Jan. 13. Frank S. Williams of New York city reappointed for a term to expire December 31, 1916. Confirmed January 26.
- March 24. Anita Owen Floyd-Jones of Massapequa to succeed Elizabeth D. Morgan, failed to qualify, for a term to expire December 31, 1913. Confirmed March 30.

MANAGERS OF THE HUDSON RIVER STATE HOSPITAL.

- Jan. 27. Reginald W. Rives of New Hamburg reappointed for a term to expire December 31, 1916. Confirmed January 27.
- Sept. 16. Lewis R. Parker of Albany to succeed William D. Granger, vacancy caused by Westchester county being placed in Hospital District of Mohansic State Hospital. Recess appointment requiring confirmation.

MANAGER OF THE KINGS PARK STATE HOSPITAL.

- Jan. 31. Helen J. McKeen of the Borough of Brooklyn reappointed for a term to expire December 31, 1916. Confirmed January 31.
- Oct. 4. Rev. John C. York of Huntington to succeed John Rooney, deceased. Recess appointment requiring confirmation.

MANAGER OF THE LONG ISLAND STATE HOSPITAL.

Jan. 31. J. Edward Swanstrom of the Borough of Brooklyn reappointed for a term to expire December 31, 1916. Confirmed January 31.

MANAGERS OF THE MANHATTAN STATE HOSPITAL.

Jan. 27. Thomas M. Mulry of New York city reappointed for a term to expire December 31, 1916. Confirmed January 27.

Sept. 16. Julia Kemp West of New York city to succeed Eleanora Kinnicutt, resigned. Recess appointment requiring confirmation.

MANAGERS OF THE ROCHESTER STATE HOSPITAL.

Jan. 31. Thomas A. O'Hare, M. D., of Rochester reappointed for a term to expire December 31, 1916. Confirmed January 31.

Sept. 15. Lillie Boller Werner of Rochester reappointed. Recess appointment requiring confirmation.

MANAGERS OF THE SAINT LAWRENCE STATE HOSPITAL.

Jan. 27. Annie Eliza Chatterton Daniels of Ogdensburg reappointed for a term to expire December 31, 1916. Confirmed January 27.

July 18. H. Putnam Allen of Fulton to succeed Frank M. Bosworth, resigned. Recess appointment requiring confirmation.

MANAGERS OF THE UTICA STATE HOSPITAL.

Jan. 31. William G. Mayer of Waterville reappointed for a term to expire December 31, 1916. Confirmed January 31.

March 7. John D. Kernan of Utica to succeed himself, he having resigned as such manager on June 14, 1909. Term to expire on December 31, 1912. Confirmed March 7.

Sept. 17. Mary Isabel Doolittle of Utica to succeed Marietta D. Cox, resigned. Recess appointment requiring confirmation.

MANAGER OF THE WILLARD STATE HOSPITAL.

- Jan. 31. Emmett C. Dwelle of Penn Yan reappointed for a term to expire December 31, 1916. Confirmed January 31.

MANAGER OF THE GOWANDA STATE HOMEOPATHIC HOSPITAL.

- Feb. 28. Fred J. Blackmon of Gowanda reappointed for a term to expire December 31, 1916. Confirmed February 28.

MANAGERS OF THE MIDDLETOWN STATE HOMEOPATHIC HOSPITAL.

- Feb. 28. Julia Metcalf Cary of New York city to succeed Alice Larkin, resigned, for a term to expire December 31, 1915. Confirmed March 10.
- Feb. 28. Annie Doves Hoe of New York city to succeed Harriet A. Dillingham, resigned, for a term to expire December 31, 1916. Confirmed March 10.
- May 17. May Langhaar of the Borough of Brooklyn to succeed Annie Doves Hoe, failed to qualify, for a term to expire December 31, 1916. Confirmed May 25.

MANAGERS OF THE MOHANSIC STATE HOSPITAL (Chapter 57, Laws of 1910).

- May 5. William D. Granger, M. D., of Bronxville for a term to expire December 31, 1910. Confirmed May 11.
- May 5. Mary Flexner of New York city for a term to expire December 31, 1911. Confirmed May 11.
- May 5. Frank Tucker of New Rochelle for a term to expire December 31, 1912. Confirmed May 11.
- May 5. Andrew J. Shipman of New York city for a term to expire December 31, 1913. Confirmed May 11.

- May 5. John C. Clark of New York city for a term to expire December 31, 1914. Confirmed May 11.
- May 5. Helen Miller Gould of New York city for a term to expire December 31, 1915. Confirmed May 11.
- May 5. Valentine Everit Macy of Scarboro for a term to expire December 31, 1916. Confirmed May 11.
- May 26. Pierre Jay of Mount Kisco to succeed Valentine Everit Macy, failed to qualify, for a term to expire December 31, 1916. Confirmed May 26.
- Sept. 16. J. Howard Wainwright of Rye to succeed Pierre Jay, failed to qualify. Recess appointment requiring confirmation.

CHARITABLE INSTITUTIONS

MANAGER OF THE NEW YORK STATE HOSPITAL FOR THE CARE
OF CRIPPLED AND DEFORMED CHILDREN.

- May 5. Newton M. Shaffer, M. D., of New York city reappointed for a term to expire February, 1917. Confirmed May 6.

TRUSTEES OF THE NEW YORK STATE HOSPITAL FOR THE TREAT-
MENT OF INCIPIENT PULMONARY TUBERCULOSIS.

- March 4. Frank A. Bosworth of Utica to succeed Edward R. Rice, resigned, for a term to expire February, 1914. Confirmed March 10.
- May 19. Charles Gibson of Albany to succeed John Bancroft Devins for a term to expire February, 1916. Confirmed May 25.
- May 19. John Henry Huddleston, M. D., of New York city to succeed Willis G. Macdonald, M. D., resigned, for a term to expire February, 1916. Confirmed May 25.
- May 19. John R. Shillady of Buffalo to succeed John H. Pryor, M. D., resigned, for a term to expire February, 1915. Confirmed May 25.

MANAGERS OF THE CRAIG COLONY FOR EPILEPTICS.

- May 17. Frederick Peterson, M. D., of New York city reappointed for a term to expire February, 1912. Confirmed May 17.
- May 17. Percy L. Lang of Waverly reappointed for a term to expire February, 1913. Confirmed May 17.
- May 17. Daniel B. Murphy of Rochester reappointed for a term to expire February, 1914. Confirmed May 17.

MANAGERS OF THE NEW YORK STATE TRAINING SCHOOL FOR GIRLS.

- Jan. 27. Nathaniel H. Levi of the Borough of Brooklyn reappointed for a term to expire February, 1917. Confirmed January 27.
- Sept. 28. Carrie A. Moot of Buffalo to succeed Henry L. K. Shaw, resigned. Recess appointment requiring confirmation.

MANAGERS OF THE WESTERN HOUSE OF REFUGE FOR WOMEN.

- Feb. 28. Jane L. Armstrong of Rochester reappointed for a term to expire February, 1917. Confirmed February 28.
- May 17. Monsignor John L. Reilly of Schenectady to succeed Stephen C. Waterman, resigned, for a term to expire February, 1916. Confirmed May 18.
- May 17. Frederick S. Kellogg of Utica original appointment (pursuant to Chapter 149, Laws of 1909), for a term to expire February, 1915. Confirmed May 18.
- Oct. 4. Robert G. Cook, M. D., of Canandaigua to succeed Frederick S. Kellogg, failed to qualify. Recess appointment requiring confirmation.

MANAGERS OF THE STATE AGRICULTURAL AND INDUSTRIAL SCHOOL.

- May 17. Uriel B. Moses of Lima reappointed for a term to expire February, 1912. Confirmed May 17.
- May 17. William Bausch of Rochester reappointed for a term to expire February, 1913. Confirmed May 17.
- May 26. John F. White of Rochester to succeed William Bausch, failed to qualify, for a term to expire February, 1913. Confirmed May 26.

MANAGERS OF THE STATE CUSTODIAL ASYLUM FOR FEEBLE-MINDED WOMEN.

- Jan. 13. Henry H. Stebbins, D. D., of Rochester reappointed for a term to expire February, 1911. Confirmed January 19.
- Jan. 13. Peter Kemper, Jr., of Newark reappointed for a term to expire February, 1916. Confirmed January 19.
- May 5. Gertrude A. Moss of Rochester reappointed for a term to expire February, 1917. Confirmed May 6.
- Oct. 4. Charles P. Emerson of Clifton Springs to succeed Robert Dey, resigned. Recess appointment requiring confirmation.

MANAGER OF THE ROME STATE CUSTODIAL ASYLUM.

- Jan. 13. Stoddard M. Stevens of Rome reappointed for a term to expire February, 1915. Confirmed January 19.

MANAGER OF THE SYRACUSE INSTITUTION FOR FEEBLE-MINDED CHILDREN.

- Jan. 13. Walter W. Cheney of Manlius reappointed for a term to expire February, 1915. Confirmed January 13.

MANAGERS OF LETCHWORTH VILLAGE.

- Jan. 13. Cassity E. Mason of Tarrytown reappointed for a term to expire February, 1911. Confirmed January 19.
- Jan. 13. Thomas J. Colton of New York city reappointed for a term to expire February, 1912. Confirmed January 19.
- Jan. 13. Frank A. Vanderlip of Scarboro reappointed for a term to expire February, 1913. Confirmed January 19.
- Feb. 28. Frank A. Vanderlip of Scarboro to succeed himself, failed to qualify, for a term to expire February, 1913. Confirmed February 28.
- Jan. 13. Marion R. Taber of New York city reappointed for a term to expire February, 1914. Confirmed January 19.
- Jan. 13. L. Pierce Clark, M. D., of New York city reappointed for a term to expire February, 1915. Confirmed January 19.
- Jan. 13. Franklin B. Kirkbride of New York city reappointed for a term to expire February, 1916. Confirmed January 19.
- Jan. 13. Leopold Sondheim of New York city reappointed for a term to expire February 1, 1910. Confirmed January 19.
- Feb. 1. Leopold Sondheim of New York city reappointed for a term to expire February, 1917. Confirmed February 2.

TRUSTEE OF NEW YORK STATE SOLDIERS AND SAILORS' HOME.

- May 5. William H. Nichols of Bath reappointed for a term to expire February, 1917. Confirmed May 6.

MANAGER OF THE NEW YORK STATE WOMAN'S RELIEF CORPS
HOME.

- May 5. Georgianna S. Griffith of Troy reappointed for a term to expire February, 1917. Confirmed May 6.

REFORMATORIES

MEMBER OF THE STATE BOARD OF MANAGERS OF REFORMATORIES.

- Jan. 31. William N. Eastabrook of Elmira reappointed for a term to expire December 31, 1916. Confirmed January 31.

MANAGERS OF THE NEW YORK STATE REFORMATORY FOR WOMEN.

- May 17. William G. Barrett of Katonah to succeed Joseph Barrett, deceased, for a term to expire February, 1915. Confirmed May 18.
- Feb. 28. David Cromwell of White Plains to succeed M. Allen Starr, resigned, for a term to expire February, 1916. Confirmed May 18.
- Jan. 27. James Wood of Mount Kisco reappointed for a term to expire February, 1917. Confirmed January 27.

JUDICIAL

ASSOCIATE JUDGE OF COURT OF APPEALS.

- Oct. 5. Frederick Collin of Elmira to fill the vacancy caused by the death of Edward T. Bartlett.

SPECIAL SURROGATE — CHAUTAUQUA COUNTY.

- Feb. 11. Robert J. Cooper of Dunkirk as special surrogate of and for the county of Chautauqua to fill the vacancy caused by the resignation of Albert E. Nugent. Confirmed February 17.

COUNTY JUDGE AND SURROGATE — LEWIS COUNTY.

- Feb. 16. Milton Carter of Harrisville as county judge and surrogate of and for the county of Lewis to fill the vacancy caused by the resignation of Edgar S. K. Merrell. Confirmed February 17.

COUNTY JUDGE AND SURROGATE — SULLIVAN COUNTY.

- April 5. William L. Thornton of Monticello as county judge and surrogate of and for the county of Sullivan to fill the vacancy caused by the death of John P. Roosa. Confirmed April 6.

HONORARY

NATIONAL CIVIC FEDERATION.

January 8. As delegates to the meeting of the National Civic Federation, to be held in Washington, D. C., January 17, 1910:

Elihu Root, Washington, D. C.

Andrew Carnegie, New York.

Seth Low, New York.

Alton B. Parker, Esopus.

Nicholas Murray Butler, New York.

William R. Willcox, New York.

Edwin R. C. Seligman, New York.

Isaac N. Seligman, New York.

George W. Perkins, New York.

J. Mayhew Wainwright, Rye.

Howard R. Bayne, New Brighton.

Walter F. Willcox, Ithaca.

Jeremiah W. Jenks, Ithaca.

Henry R. Seager, New York.

Jesse S. Phillips, Andover.

Lawrence F. Abbott, New York.

John G. Agar, New York.

James Speyer, New York.

V. Everitt Macy, New York.
 Henry Phipps, New York.
 William C. Brown, New York.
 Frank A. Vanderlip, New York.
 Charles A. Moore, New York.
 Marcus M. Marks, New York.
 Otto M. Eidlitz, New York.
 John Mitchell, New York.
 Timothy Healy, New York.

Jan. 13. Cyrus W. Phillips, Rochester.
 William A. Gardner, Amsterdam.

AMERICAN AUTOMOBILE ASSOCIATION.

February 14. Delegate to the National Legislative Convention of the American Automobile Association, to be held in Washington, D. C., February 15, 1910: Thomas F. Fennell, Elmira.

CONFERENCE ON MEDICAL EDUCATION AND MEDICAL LEGISLATION.

February 25. Delegate to the Special Conference on Medical Education and Medical Legislation, to be held in Chicago, Ill., February 28, 1910: Willis G. Macdonald, M. D., Albany.

AMERICAN CONFEDERATION OF MEDICAL BOARDS.

February 25. Delegates to the annual meeting of the American Confederation of Reciprocating, Examining and Licensing Medical Boards, to be held in Chicago, Ill., March 3, 1910: Willis G. Macdonald, M. D., Albany.

NATIONAL CONFERENCE OF CHARITIES AND CORRECTION.

March 26. Delegates to the National Conference of Charities and Correction, to be held in St. Louis, Mo., May 19-26, 1910:

Robert W. DeForest, New York.
 Otto T. Bannard, New York.
 Edward T. Devine, New York.

Homer Folks, Yonkers.

William Rhinelanders Stewart, New York.

Dennis McCarthy, Syracuse.

Robert W. Hebbard, New York.

Thomas M. Mulry, New York.

Simon W. Rosendale, Albany.

Mary Simkhovitch, New York.

Francis C. Huntington, New York.

George E. Dunham, Utica.

Henry Melville, New York.

Joseph F. Scott, Elmira.

Henry Moskowitz, New York.

Lillian D. Wald, New York.

Jane L. Armstrong, Rochester.

Albert Warren Ferris, M. D., New York.

Charles F. Howard, M. D., Buffalo.

Ansley Wilcox, Buffalo.

Hortense V. Bruce, M. D., Hudson.

Katharine B. Davis, Bedford.

May 10. Henry Solomon, New York.

AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE.

March 26. Delegates to the meeting of the American Academy of Political and Social Science, to be held in Philadelphia, Pa., April 8-9, 1910:

Robert W. DeForest, New York.

Samuel M. Lindsay, New York.

Milo Roy Maltbie, New York.

NATIONAL ASSOCIATION OF SHELL FISH COMMISSIONERS.

March 31. Delegates to the Convention of the National Association of Shell Fish Commissioners, to be held in Mobile, Ala., April 19, 1910:

Tarleton H. Bean, New York.

B. Frank Wood, Jamaica.

Charles Wyeth, New York.

INTERNATIONAL CONGRESS OF ROAD BUILDERS.

May 18. Delegate to the International Congress of Road Builders, to be held in Brussels, Belgium, July 31, 1910: Elmer L. Corthell, New York.

NATIONAL GOOD ROADS CONGRESS.

July 19. Delegates to the National Good Roads Congress, to be held in Niagara Falls, N. Y., July 28, 1910:

Samuel Percy Hooker, Le Roy.

C. E. Shafer, Lockport.

Thomas Warren Allen, New York.

Robert Earl, Herkimer.

George C. Diehl, Buffalo.

John M. Satterfield, Buffalo.

George F. Nye, Niagara Falls.

Augustus Porter, Niagara Falls.

George Thompson, Middleport.

Onias J. Humphrey, Warsaw.

Norman J. Gould, Seneca Falls.

Gorton E. Allen, Auburn.

W. Pierrepont White, Utica.

Edward Cox, M. D., Albany.

Harry L. Brewster, Rochester.

Albert R. Shattuck, New York.

A. R. Pardington, New York.

NATIONAL CONGRESS OF NEGRO EDUCATORS.

July 19. Delegates to the National Congress of Negro Educators, to be held in St. Louis, Mo., August 25, 1910:

John S. Brown, Jr., New York.

William L. Bulkley, New York.

AMERICAN PRISON ASSOCIATION.

July 20. Delegates to the Congress of the American Prison Association, to be held in Washington, D. C., September 30 to October 2, 1910:

Cornelius V. Collins, Troy.

Henry Solomon, New York.

- Francis C. Huntington, New York.
 Frank E. Wade, Buffalo.
 Henry Melville, New York.
 Joseph F. Scott, Elmira.
 Albion V. Wadhams, Wadhams.
 Homer Folks, Yonkers.
- July 21. Eugene Smith, New York.
 Robert W. DeForest, New York.
 Helen Miller Gould, New York.
 Charles S. Whitman, New York.
 Robert J. Wilkin, Brooklyn.
 Julius M. Mayer, New York.
 Mrs. William Emerson, Jr., New York.
 Franklin H. Briggs, Industry.
 Katharine Bement Davis, Bedford.
 Hortense V. Bruce, M. D., Hudson.
 Alice Curtin, Albion.
 Mornay Williams, New York.
 John M. Glenn, New York.
 William Cary Sanger, Sangerfield.
- Aug. 12. Kathryn I. Hewitt, Hudson.
- Sept. 15. Charles M. Hough, New York.
 Joseph H. Choate, New York.
 Mortimer L. Schiff, New York.
 J. G. Schurman, Ithaca.
 Z. R. Brockway, Elmira.
 Margaret O. Sage, New York.
 Frederick H. Mills, New York.
- Oct. 17. Albert Warren Ferris, M. D., New York.
 29. George F. Canfield, New York.

INTERNATIONAL PRISON CONGRESS.

July 20. Delegates to the International Prison Congress,
 to be held in Washington, D. C., October 2-8, 1910:

- Nov. Cornelius V. Collins, Troy.
 Oct. 7. Henry Solomon, New York.
 Francis C. Huntington, New York.
 Frank E. Wade, Buffalo.

- Henry Melville, New York.
Joseph F. Scott, Elmira.
- Albion V. Wadhams, Wadhams.
- Homer Folks, Yonkers.
- July 21. Eugene Smith, New York.
Robert W. DeForest, New York.
Helen Miller Gould, New York.
Charles S. Whitman, New York.
Robert J. Wilkin, Brooklyn.
Julius M. Mayer, New York.
Mrs. William Emerson, Jr., New York.
Franklin H. Briggs, Industry.
Katharine Bement Davis, Bedford.
- Hortense V. Bruce, M. D., Hudson.
Alice Curtin, Albion.
Mornay Williams, New York.
John M. Glenn, New York.
William Cary Sanger, Sangerfield.
- Aug. 12. Kathryn I. Hewitt, Hudson.
- Sept. 15. Charles M. Hough, New York.
Joseph H. Choate, New York.
Mortimer L. Schiff, New York.
J. G. Schurman, Ithaca.
Z. R. Brockway, Elmira.
Margaret O. Sage, New York.
Frederick H. Mills, New York.
17. Albert Warren Ferris, M. D., New York.
19. George F. Canfield, New York.

ATLANTIC DEEPER WATERWAYS ASSOCIATION.

July 21. Delegates to the Atlantic Deeper Waterways Association Convention, to be held in Providence, R. I., August 31, to September 3, 1910:

- Frederick C. Stevens, Attica.
- Frank M. Williams, Oneida.
- George Clinton, Buffalo.
- Aug. 3. William T. Donnelly, Brooklyn.
- Charles E. Reid, New York.

INTERNATIONAL CONFERENCE ON STATE AND LOCAL TAXATION.

July 21. Delegates to the International Conference on State and Local Taxation, to be held in Milwaukee, Wis., August 30 to September 2, 1910:

Egburt E. Woodbury, Jamestown.

Lawson Purdy, New York.

Edwin R. A. Seligman, New York.

Aug. 5. Alternate delegates:

Samuel A. Carlson, Jamestown.

Edwin L. Heydecker, New York.

NATIONAL CONSERVATION CONGRESS.

July 22. Delegates to the National Conservation Congress, to be held in St. Paul, Minn., September 6-9, 1910:

James S. Whipple, Salamanca.

Frederick C. Stevens, Attica.

Frank M. Williams, Oneida.

Henry H. Persons, East Aurora.

Andrew S. Draper, Albany.

Raymond A. Pearson, Ithaca.

George H. Cobb, Watertown.

Charles M. Hamilton, Ripley.

Josiah T. Newcomb, New York.

Howard R. Bayne, New Brighton.

Lewis S. Chanler, Barrytown.

Lindon Bates, Jr., New York.

John M. Lupton, Mattituck.

John G. Agar, New York.

Frank N. Godfrey, Olean.

Aug. 3. William Bondy, New York.

19. John H. Finley, New York.

CELEBRATION OF ANNIVERSARY OF BATTLE OF GETTYSBURG.

July 23. Representative of the State at the conference in connection with the celebration of the Fiftieth Anniversary of the Battle of Gettysburg, to be held in Harrisburg, Pa., in October, 1910: Major-General Daniel E. Sickles, New York.

September 17. Brigadier-General George S. Nichols, Athens, appointed as Associate Representative.

NATIONAL IRRIGATION CONGRESS.

August 4. Delegates to the National Irrigation Congress, to be held in Pueblo, Col., September 26-30, 1910: •

Liberty H. Bailey, Ithaca.
B. J. Case, Sodus.
Frank N. Godfrey, Olean.
Elmer O. Fippin, Ithaca.
Augustus Denniston, Washingtonville.
Raymond A. Pearson, Albany.
H. L. Brown, Carlton.
William H. Jordan, Geneva.
W. N. Giles, Skaneateles.
Almon R. Eastman, Waterville.
W. W. Ware, Batavia.
N. E. Webster, New York.
Hamlet Worker, Camillus.
Charles R. White, Ionia.
H. G. Aldrich, Gouverneur.

Sept. 6. Edward R. Taylor, Penn Yan.
17. Charles S. Wilson, Ithaca.

DRY FARMING CONGRESS.

August 4. Delegates to the Dry Farming Congress, to be held in Spokane, Wash., October 3-6, 1910:

Liberty H. Bailey, Ithaca.
B. J. Case, Sodus.
Frank N. Godfrey, Olean.
Elmer O. Fippen, Ithaca.
Augustus Denniston, Washingtonville.
Raymond A. Pearson, Albany.
H. L. Brown, Carlton.
William H. Jordan, Geneva.
W. N. Giles, Skaneateles.
Almon R. Eastman, Waterville.
W. W. Ware, Batavia.
N. E. Webster, New York.
Hamlet Worker, Camillus.

Charles R. White, Ionia.

H. G. Aldrich, Gouverneur.

Sept. 6. Edward R. Taylor, Penn Yan.

17. Charles S. Wilson, Ithaca.

ASSOCIATION OF PROBATE JUDGES OF MICHIGAN.

August 19. Delegate to the annual meeting of the Association of Probate Judges of Michigan, to be held in Saginaw, Mich., September 26, 1910: Josiah C. Tallmadge, Catskill.

FARMERS' NATIONAL CONGRESS.

September 7. Delegates to the Farmers' National Congress, to be held in Lincoln, Neb., October 6, 1910:

Raymond A. Pearson, Ithaca.

William C. Barry, Rochester.

E. W. Catchpole, North Rose.

Elliot B. Norris, Sodus.

Clayton C. Taylor, Lawton Station.

Thomas B. Wilson, Halls Corners.

Ira Sharp, Lowville.

R. H. Smith, Frankfort.

George B. Monroe, Dryden.

Sept. 17. E. Q. Dutton, Cato.

AMERICAN MINING CONGRESS.

September 7. Delegates to the Convention of the American Mining Congress, to be held at Los Angeles, Cal., September 26 to October 1, 1910:

Edmond O. Munson, Rochester.

Melville A. Pollock, Rochester.

B. W. Traylor, New York.

Sept. 17. E. S. Mendels, New York.

THIRD ANNUAL NATIONAL GOOD ROADS CONVENTION.

September 7. Delegates to the Third Annual National Good Roads Convention, to be held in St. Louis, Mo., September 26, 1910:

S. Percy Hooker, LeRoy.
Thomas Warren Allen, New York.
Robert Earle, Herkimer.
Frank N. Godfrey, Olean.
W. Pierrepont White, Utica.
Albert R. Shattuck, New York.

ELEVENTH NATIONAL GOOD ROADS CONVENTION.

September 7. Delegates to the Eleventh National Good Roads Convention, to be held in Oklahoma City, Okla., October 4-6, 1910:

S. Percy Hooker, LeRoy.
Thomas Warren Allen, New York.
Robert Earle, Herkimer.
Frank N. Godfrey, Olean.
W. Pierrepont White, Utica.
Albert R. Shattuck, New York.

COMMISSION TO INVESTIGATE CONGESTION OF POPULATION.*

Oct. 3. Hon. Adelbert Moot of Buffalo.
Hon. Lewis Stuyvesant Chanler of Barrytown.
Prof. Liberty H. Bailey of Ithaca.
Mr. John Mitchell of New York.
Mrs. Florence Kelley of New York.
Dr. Stephen S. Wise of New York.
Mr. V. Everit Macy of New York.
Mrs. V. G. Simkhovitch of New York.
Mr. Cyrus L. Sulzberger of New York.
Mr. Henry T. Noyes of Rochester.
Dr. Antonio Stella of New York.
Mr. W. N. Giles of Skaneateles.

INTERNATIONAL CONGRESS OF APPLIED CHEMISTRY.

October 5. Member of the Organizing Committee of the Eighth International Congress of Applied Chemistry, to be held in the year 1912:

William G. Tucker, M. D., Albany.

*See "Miscellaneous" for reference to letters in relation to this Commission.

VII

DESIGNATIONS

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VII

DESIGNATIONS

Court Designations

NAME	DESIGNATION
George L. Ingraham.	Designated as Presiding Justice of the Appellate Division of the Supreme Court, First Department. Designated January 1, 1910.
Victor J. Dowling.	Designated as an Associate Justice of the Appellate Division of the Supreme Court, First Department. Designated January 1, 1910.
William J. Carr.	Temporary designation as an Associate Justice of the Appellate Division of the Supreme Court, Second Department. Designated January 1, 1910.
Nathan L. Miller.	Designated as an Associate Justice of the Appellate Division of the Supreme Court, First Department. Designated January 1, 1910.
Frank C. Laughlin.	Redesignated as an Associate Justice of the Appellate Division of the Supreme Court, First Department. Redesignated January 1, 1910.
Chester B. McLaughlin.	Redesignated as an Associate Justice of the Appellate Division of the Supreme Court, First Department. Redesignated January 1, 1910.
James W. Houghton.	Designated as an Associate Justice of the Appellate Division of the Supreme Court, Third Department. Designated January 1, 1910.

- Almet F. Jenks. Redesignated as an As- Redesignated March 24,
 sociate Justice of the 1910.
 Appellate Division of
 the Supreme Court,
 Second Department.
- John Proctor Clarke. Redesignated as an As- Redesignated Septem-
 sociate Justice of the ber 9, 1910.
 Appellate Division of
 the Supreme Court,
 First Department.

Court Designations Revoked

- George L. Ingraham. Designation as an As- Redesignation revoked
 sociate Justice of the January 1, 1910.
 Appellate Division of
 the Supreme Court,
 First Department; re-
 voked at own request.
- Nathan L. Miller. . . . Designation as an As- Designation revoked
 sociate Justice of the January 1, 1910.
 Appellate Division of
 the Supreme Court,
 Second Department;
 revoked at own re-
 quest.
- James W. Houghton. Designation as an As- Designation revoked
 sociate Justice of the January 1, 1910.
 Appellate Division of
 the Supreme Court,
 First Department; re-
 voked at own request.

Designation of the Attorney-General to Represent the People at a Term of the Supreme Court to be Held in Queens County and Conduct Proceedings Against John Welz and George L. Glaser

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 15, 1910.

TO THE HON. EDWARD R. O'MALLEY, *Attorney-General of the
 State of New York, Albany, N. Y.:*

SIR.—Pursuant to the provisions of section 62 of the
 Executive Law, I hereby require that you, the Attorney-Gen-

eral of the State of New York, attend in person, or by one of your deputies, a term of the Supreme Court' appointed to be held and being held in and for the county of Queens for the month of April, 1910, which said term was appointed to begin upon the first Monday of said month, and at such later term or terms of said court appointed or fixed, as shall be held in and for said county for the purpose of managing and conducting in said court any and all examinations, inquiries, criminal actions and appeals now or hereafter pending in said court in which the People of the State of New York are plaintiffs, and John Welz and George L. Glaser, or either or both of them, are defendants, the indictments against said defendants having been found by the grand jury of Queens county on or about February 1st, 1908; and that in person or by your deputy so attending in the place and stead of the district attorney of Queens county you exercise all the powers and perform all the duties conferred upon you by said section 62 and by this requirement made thereunder; and that in said proceedings, actions and appeals, the district attorney of Queens county shall only exercise such powers and perform such duties as are required of him by you or the Deputy Attorney-General so attending.

(Signed) CHARLES E. HUGHES.

Designation of the Attorney-General to Represent the People at an Extraordinary Trial Term of the Supreme Court to be Held in Schenectady County and Conduct Proceedings in the Court and Before the Grand Jury Relating to Any Criminal Charge Against Any Person or Persons Based Upon Any Violation of Law Arising Through the Transactions of Any Person with the Officers of Schenectady County

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 26, 1910.

TO THE HON. EDWARD R. O'MALLEY, *Attorney-General of the State of New York, Albany, N. Y.:*

SIR.—Pursuant to the provisions of section 62 of the Executive Law, I hereby require that you, the Attorney-Gen-

eral of this State, attend in person, or by one of your deputies, an extraordinary trial term of the Supreme Court appointed to be held in and for the county of Schenectady on the sixteenth day of May, 1910, and that you in person or by said deputy appear before the grand jury drawn for said term of said court, and before any grand jury or grand juries which shall be drawn and sit for any later term or terms of said court, for the purpose of managing and conducting in said court and before said grand jury, and said other grand juries, any and all proceedings, examinations, and inquiries, and any and all criminal actions and proceedings which may be had or taken by or before said grand jury or by or before any such other grand jury upon, concerning, or relating to any criminal charge against any person or persons, growing out of or based upon any violation, or alleged violation, of law, arising through or from the transactions of any person with the county of Schenectady, or with the officers of said county, or any of them; and that in person or by your deputy, in the place and stead of the district attorney of Schenectady county, you exercise all the powers and perform all the duties conferred upon you by said section 62 and this requirement made thereunder.

(Signed) CHARLES E. HUGHES.

Designation of the Attorney-General to Represent the People at a Trial Term of the Supreme Court to be Held in Monroe County and Conduct Proceedings in the Court and Before the Grand Jury Relating to Any Criminal Charge Against Any Person or Persons Based Upon Any Violation of the Election Law

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 6, 1910.

TO THE HON. EDWARD R. O'MALLEY, *Attorney-General of the State of New York, Albany, N. Y.:*

SIR.—Pursuant to the provisions of section 62 of the Executive Law, I hereby require that you, the Attorney-Gen-

eral of this State, attend in person, or by one of your deputies, a trial term of the Supreme Court appointed to be held in and for the county of Monroe on the ninth day of May, 1910, and that you in person, or by said deputy, appear before the grand jury drawn for said term of said court, and before any grand jury or grand juries which shall be drawn and sit for any later term or terms of said court, for the purpose of managing and conducting in said court and before said grand jury, and said other grand juries, any and all proceedings, examinations, and inquiries, and any and all criminal actions and proceedings which may be had or taken by or before said grand jury so drawn for said term, or by or before any such other grand jury upon, concerning or relating to any criminal charge against any person or persons, growing out of or based upon any violation, or alleged violation, of the Election Law of the State of New York, or of the provisions of the Penal Law of the State of New York relating to crimes against the elective franchise; and that in person or by your deputy, in the place and stead of the district attorney of Monroe county, you exercise all the powers and perform all the duties conferred upon you by said section 62 and this requirement made thereunder,

(Signed) CHARLES E. HUGHES.

Designation of the Attorney-General to Represent the People at a Trial Term of the Supreme Court to be Held in Dutchess County and Conduct Proceedings in the Court and Before the Grand Jury Relating to Any Criminal Charge Against Any Person or Persons Based Upon Any Violation of Law Arising from Any Act of Any Officer of the Dutchess Insurance Company or of the Dutchess Fire Insurance Company

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 25, 1910.

TO THE HON. EDWARD R. O'MALLEY, *Attorney-General of the State of New York, Albany, N. Y.:*

SIR.—Pursuant to the provisions of section 62 of the Executive Law, I hereby require that you, the Attorney-Gen-

eral of this State, attend in person or by one of your deputies the trial term of the Supreme Court appointed to be held in and for the county of Dutchess commencing on the 6th day of June, 1910, and that you in person or by said deputy appear before the grand jury drawn for said term of said court and before any grand jury or grand juries which shall be drawn and sit for any later term or terms of said court for the purpose of managing and conducting in said court and before said grand jury and said other grand juries any and all proceedings, examinations and inquiries, and any and all criminal actions and proceedings which may be had or taken by or before said grand jury or by or before any such other grand jury upon, concerning or relating to any criminal charge against any person or persons growing out of or based upon any violation or alleged violation of law arising through or from any act, transaction or omission of any officer, director, trustee, agent, employee or servant of the Dutchess Insurance Company or of the Dutchess Fire Insurance Company, or of any other person with relation to the conduct, management, property or affairs of either of said companies, and to further manage and conduct the prosecution and trial at said June, 1910, term or at any term at which they may hereafter be tried, of any and all indictments that may be found upon any of the violations of law hereinbefore mentioned, and that in person or by your deputy in the place and stead of the district attorney of Dutchess county, you exercise all the powers and perform all the duties conferred upon you by said section 62 and this requirement made thereunder.

(Signed) CHARLES E. HUGHES.

Designation of the Attorney-General to Represent the People at an Extraordinary Trial Term of the Supreme Court to be Held in Albany County and Conduct Proceedings in the Court and Before the Grand Jury Relating to Any Criminal Charge Against Any Person or Persons Based Upon Any Violation of Law Arising from Any Act of the State Engineer and Surveyor During the Years 1907 and 1908

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 23, 1910.

TO THE HON. EDWARD R. O'MALLEY, *Attorney-General of the State of New York, Albany, N. Y.:*

SIR.—Pursuant to the provisions of section 62 of the Executive Law, I hereby require that you, the Attorney-General of this State, attend in person, or by one of your deputies, an extraordinary trial term of the Supreme Court appointed to be held in and for the county of Albany on the 18th day of July, 1910, and that you in person or by said deputy appear before the grand jury drawn for said term of said court and before any grand jury or grand juries which shall be drawn and sit for any later term or terms of said court for the purpose of managing and conducting in said court and before said grand jury and said other grand juries any and all proceedings, examinations and inquiries, and any and all criminal actions and proceedings which may be had or taken by or before said grand jury or by or before any such other grand jury upon, concerning or relating to any criminal charge against any person or persons growing out of or based upon any violation or alleged violation of law rising through or from any act of or transaction on the part of the State Engineer and Surveyor, or of any officer or employee connected with the department of the State Engineer and Surveyor during the years 1907 and 1908, or through or from any transaction of any person, firm, corporation or association, with the State Engineer and Surveyor or with any officer or employee in the department of the State Engineer and Surveyor during

such years, and to further manage and conduct the prosecution and trial at this extraordinary term or at any term at which they may hereafter be tried, of any and all indictments that may be found upon any of the violations of law hereinbefore mentioned, and that in person or by your deputy in the place and stead of the district attorney of Albany county, you exercise all the powers and perform all the duties conferred upon you by said section 62 of this requirement made thereunder.

(Signed) CHARLES E. HUGHES.

Designation of the Attorney-General to Represent the People at a Trial Term of the Supreme Court to be Held in Queens County and Appear Before the Grand Jury for the Term of the Court for the Purpose of Conducting in the Court and Before the Grand Jury Any Proceedings Relating to Any Criminal Charge Against Any Person or Persons Based Upon Any Violation of Law Arising Through the Transactions in Queens County of Any Person with the Borough or County of Queens. Letter Relating thereto from the Commissioner of Accounts of New York City.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, September 22, 1910.

TO THE HON. EDWARD R. O'MALLEY, *Attorney-General of the State of New York, Albany, N. Y.:*

SIR.—Pursuant to the provisions of section 62 of the Executive Law, I hereby require that you, the Attorney-General of this State, attend in person, or by one of your deputies, a trial term of the Supreme Court appointed to be held in and for the county of Queens on the third day of October, 1910, and any later term or terms of said court, and that you in person or by said deputy appear before the grand jury for said term of said court, and before any grand jury or grand juries which shall be drawn and sit for any later term or terms

of said court, for the purpose of managing and conducting in said court and before said grand jury and said other grand juries, and before any trial jury or juries, any and all proceedings, examinations and inquiries, and any and all criminal actions and proceedings which may be had or taken by or before said grand jury or by or before any such other grand jury, and of prosecuting and trying at any trial term or terms of the Supreme Court any and all indictments which have heretofore been found by any Queens county grand jury sitting with the Supreme Court during the year one thousand nine hundred and ten, and are now pending, or which may be hereafter found, upon, concerning or relating to any criminal charge against any person or persons growing out of or based upon any violation, or alleged violation, of law arising through or from the transactions in Queens county of any person with the borough or county of Queens or the city of New York, or with the officers or employees, or any of them, of said borough, county or city; and that in person or by your deputy, in the place and stead of the district attorney of Queens county, you exercise all the powers and perform all the duties conferred upon you by said section 62 and this requirement made thereunder.

(Signed) CHARLES E. HUGHES.

September 16, 1910.

HON. CHARLES E. HUGHES, *Governor, Executive Mansion, Albany, N. Y.:*

SIR.—As you are doubtless aware, there are now pending in the county of Queens certain indictments brought against various officials and employees of the borough of Queens for acts of official misfeasance. These indictments are the first of importance that have grown out of the recent investigation conducted by the office of the commissioner of accounts of New York city, and have therefore a very vital bearing, not only upon honest and efficient public administration in that borough, but upon the ultimate effectiveness of the power of this office in bringing to light official wrongdoing. I feel that

you will agree with me that without demonstrating the vitality of the criminal statutes designed to inhibit wrongdoing in office, no amount of investigation of such wrongdoing will effectually serve to prevent it.

I therefore beg leave to suggest to you that the necessity for a vigorous and disinterested prosecution of the indictments in question warrants your considering the advisability of supporting the State's case with the powers conferred upon you by statute. I have specifically in mind the appointment of a special deputy attorney-general of conspicuous public standing and broad experience in criminal prosecution.

Respectfully,

(Signed)

RAYMOND B. FOSDICK,

Commissioner of Accounts.

VIII
SPECIAL TERMS OF COURT

VIII

SPECIAL TERMS OF COURT

Extraordinary Trial Term

Judge	Place	Action Taken by Governor
Charles C. Van Kirk.	Schenectady, Schenectady County, on May 16, 1910.	Designated on April 21, 1910, to hold extraordinary trial term.
Henry B. Coman....	Albany, Albany County, July 18, 1910.	Designated on June 23, 1910, to hold extraordinary trial term.

IX
**REMOVAL PROCEEDINGS AND INVESTI-
GATION**

IX

REMOVAL PROCEEDINGS AND INVESTIGATION

Proceedings for the Removal of Abraham H. Pincus, Notary Public of New York County

Charges by Henry A. Wise, United States Attorney for the Southern District of New York were laid before the Governor on December 21, 1909. See Public Papers of Governor Hughes for 1909, page 257.

ORDER OF REMOVAL

STATE OF NEW YORK — EXECUTIVE CHAMBER.

In the Matter of Charges preferred against Abraham H. Pincus, Notary Public, County of New York.

Charges having been preferred against Abraham H. Pincus by Hon. Henry A. Wise, United States Attorney for the Southern District of New York, that said Pincus as a notary public in and for the county of New York did make a false and fraudulent jurat to what purported to be an affidavit of one George Geschwind, and a copy of said charges having been given to said Pincus on December 24, 1909, together with a notice that on January 3, 1910, at noon at the Executive Chamber in the city of Albany I would afford him an opportunity to be heard in his defense, and said Pincus having failed to make any defense thereto, and the truth of said charges being established to my satisfaction, and it appearing by certified records of the Circuit Court of the United States for the Southern District of New York, showing that said Pincus pleaded guilty to an indictment therein filed predicated on the facts in said charges, and charging the offense to have been committed on June 15, 1908;

Now, THEREFORE, the public interest requiring it, it is hereby

ORDERED, That Abraham H. Pincus be and hereby is re-

moved from the office of notary public in and for the county of New York.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L.S.] fourth day of January in the year of our Lord
one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

Proceedings for the Removal of John J. Quinn, Notary Public of New York County

Charges by Henry A. Wise, United States Attorney for the Southern District of New York, were laid before the Governor on December 21, 1909. See Public Papers of Governor Hughes for 1909, page 256.

ORDER OF REMOVAL

STATE OF NEW YORK — EXECUTIVE CHAMBER.

*In the Matter of Charges preferred against John J. Quinn,
Notary Public, County of New York.*

Charges having been preferred against John J. Quinn by Hon. Henry A. Wise, United States Attorney for the Southern District of New York, that said Quinn as a notary public in and for the county of New York did make a false and fraudulent jurat to the pension voucher of one Harriet Smith, and a copy of said charges having been given to said Quinn on December 24, 1909, together with a notice that on January 3, 1910, at noon at the Executive Chamber in the city of Albany I would afford him an opportunity to be heard in his defense, and said Quinn having appeared before me on said day and having been duly heard in his defense, and the truth of said charges being established to my satisfaction, and it appearing by certified records of the Circuit Court of the

United States for the Southern District of New York, showing that said Quinn pleaded guilty to an indictment therein filed predicated on the facts in said charges, and charging the offense to have been committed on November 9, 1908, and again on February 10, 1909,

Now, THEREFORE, the public interest requiring it, it is hereby

ORDERED, That John J. Quinn be and hereby is removed from the office of notary public in and for the county of New York.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L.S.] fourth day of January in the year of our Lord one
thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

Proceedings for the Removal of Therese S. Beckett, Notary Public of Kings County

NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of Charges preferred against Therese S.
Beckett, Notary Public, County of Kings.*

TO THERESE S. BECKETT, *Notary Public County of Kings:*

You are hereby notified that charges have been preferred against you by Louis R. Bick, Assistant United States Attorney for the Eastern District of New York, at Brooklyn, asking that you be removed from the office of notary public for the county of Kings. A copy of said charges, hereto annexed, is herewith served upon and given to you.

You are hereby further notified that on Thursday, the 10th day of February, 1910, in the Executive Chamber in the city of Albany, at noon, I shall afford you an opportunity of being heard in your defense in answer to such charges.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Privy Seal of the State at the
[L.S.] Capitol in the city of Albany this fourth day of February in the year of our Lord one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

ORDER OF REMOVAL

STATE OF NEW YORK — EXECUTIVE CHAMBER.

In the Matter of Charges preferred against Therese S. Beckett, Notary Public, County of Kings.

Charges having been preferred against Therese S. Beckett by Louis R. Bick, Assistant United States Attorney for the Eastern District of New York at Brooklyn, that the said Therese S. Beckett as a notary public in and for the county of Kings did make a false and fraudulent jurat to the pension voucher of one Annie McCall, and a copy of said charges having been given to said Therese S. Beckett on the 5th day of February, 1910, together with a notice that on February 10, 1910, at noon at the Executive Chamber in the city of Albany, I would afford her an opportunity to be heard in her defense, and said Therese S. Beckett having failed to make any defense thereto and the truth of said charges being established to my satisfaction;

NOW, THEREFORE, the public interest requiring it, it is hereby

ORDERED, That Therese S. Beckett be and hereby is removed from the office of notary public in and for the county of Kings.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this nineteenth
[L.S.] day of February in the year of our Lord one thou-
sand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

**Investigation of the Management and Affairs of the
Forest, Fish and Game Commission and of the Forest
Purchasing Board—Appointment of Roger P. Clark
and H. Leroy Austin as Commissioners ***

STATE OF NEW YORK — EXECUTIVE CHAMBER.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE that pursuant to section 8 of the Executive Law,
I have appointed and by these presents do appoint

ROGER P. CLARK,

of Binghamton, Broome county, N. Y., and

H. LEROY AUSTIN,

of Catskill, Greene county, N. Y., to examine and investigate
the management and affairs of the Forest, Fish and Game Com-
mission of the State of New York and of the Forest Purchas-
ing Board, the Forest Purchasing Board being the Board au-
thorized to acquire lands in the Adirondack and Catskill parks
under the Forest, Fish and Game Law:

The said Roger P. Clark and H. Leroy Austin are and each
of them is hereby empowered to subpoena and enforce the at-
tendance of witnesses, to administer oaths and examine wit-
nesses under oath and to require the production of any books
or papers deemed relevant or material;

*Mr. Clark and Mr. Austin submitted their report to the Governor
on the result of their investigation on October 1, 1910.

And I hereby give and grant unto each said Roger P. Clark and H. Leroy Austin all and singular the powers and authorities which may be given or granted unto a person appointed by me for such purpose under authority of the statute aforesaid.

IN WITNESS WHEREOF, I have subscribed my name to these presents and caused the Privy Seal of the [L.S.] State to be affixed hereto at the Capitol in the city of Albany this sixteenth day of February in the year of our Lord one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

Resignation of James S. Whipple, Forest, Fish and Game Commissioner

James S. Whipple, Forest, Fish and Game Commissioner, resigned his office, and the resignation was accepted. The following correspondence was made public at the Executive Chamber:

“STATE OF NEW YORK,

FOREST, FISH AND GAME COMMISSION,

Albany, N. Y., October 3, 1910.

“HON. CHARLES E. HUGHES, *Governor, Executive Chamber, Albany, N. Y.:*

“MY DEAR GOVERNOR.—I have read the report of the Commission appointed by you to investigate the administration of the Forest, Fish and Game Department. As a result of the criticisms made of my Department, I desire to tender my resignation to take effect at once.

“This is not the time to discuss either the facts or the conclusions set up in the report, but I do emphatically deny the truth of the facts stated and disagree from the conclusions reached. I recognize, however, that, as a result of this report,

my usefulness to the State in this department has been destroyed.

"I have held this position for six years. I was not an applicant for the position. I have come to appreciate the great importance of the work of this Department to the people of the State. I have heard New York State cited as an example in the conservation of its forests in many states of the Union. The work of my Department has increased many fold during my administration. It extends to all parts of the State. The work of this Department has extended along new lines,—some of it experimental. The field covered is so large that much of it must be intrusted to subordinates. That a critical examination covering the six years of my administration would disclose errors of judgment and mistakes made should be expected. I think a similar examination would show errors and mistakes in the management of any great business organization of the country. I will not attempt to offset these with the good that has been accomplished during the same time. I will only say that my conscience acquits me of any intentional neglect or dereliction of duty. I have given to the work my entire time and my heart has been in it. I have kept in touch with the friends of conservation in the State. It is a thousand times more important that this great work should go on and that it should not become a subject of political contention than that I should retain the office.

"For these reasons, to relieve you of any embarrassment, and without solicitation on the part of anyone, I respectfully tender my resignation.

"Very truly yours,

"(Signed) J. S. WHIPPLE."

REPLY OF THE GOVERNOR

"STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, October 3, 1910.

"HON. JAMES S. WHIPPLE, *Albany, N. Y.*:"

"DEAR SIR.—Your letter of this date resigning your office as Forest, Fish and Game Commissioner has been received.

It is impossible for me adequately to express the regret that I feel at the conditions which the investigation of your department has shown to exist.

"Your work had been strongly commended to me by those who are interested in the protection of the forests and in the conservation of the State's interest in these important resources. You should have full credit with respect to those matters in which there has been increased efficiency; and I desire to believe, and I accept your statement, that you have not been guilty of wrong intention.

"But the conditions which have been shown to exist cannot be ignored and must be immediately rectified.

"Your resignation is accepted and under the statute took effect when it was received and filed in this office.

"Very truly yours,

"(Signed) CHARLES E. HUGHES."

LETTER FROM SPEAKER WADSWORTH

Governor Hughes received the following letter from Speaker Wadsworth, the Chairman of the Forest Purchasing Board, with regard to the report of the Commissioners appointed to investigate the management and affairs of the Forest, Fish and Game Commission:

"Albany, October 3, 1910.

"HON. CHARLES E. HUGHES, *Executive Chamber, Albany, N. Y.*

"SIR.—The Forest Purchasing Board, through your courtesy, has been made thoroughly conversant with the report of the Commissioners appointed by you to examine, among other matters, into the purchase of State lands in the Adirondack and Catskill preserves.

"The Board desires to express to you its earnest opinion that, since the State embarked upon the purchase of these lands, the property so acquired, amounting to 850,000 acres at an average cost of \$4.42 per acre, there has been secured an estate of ever increasing value and worth far more than

what has, from time to time, been paid for it. The present Board has believed that thorough and adequate appraisals of these lands have been made and that the prices paid have been justified by the appraisals and the knowledge at the disposal of the Board.

"The report of your Commission presents a condition which it is our purpose immediately to remedy, so far as it is possible for this Board to do so. In order that the procedure under which appraisals have been made and purchases consummated may be perfected and strengthened to the utmost, and in order that the work of searching the titles of land offered for sale may be thoroughly and promptly accomplished, the Board at its earliest opportunity will revise its rules of procedure and reorganize its system of appraisal and its legal bureau. The Board desires to assure you that it has been, and is to-day, its policy to receive and carefully consider all offers of land, without prejudice or favor, with the sole idea of progressing with all reasonable speed the work of enlarging and rounding out the invaluable forest preserve of the State.

"Very truly yours,
"(Signed) J. W. WADSWORTH, JR.,
"Chairman"

Appointment of H. Leroy Austin as Forest, Fish and Game Commissioner

Governor Hughes appointed H. Leroy Austin of Catskill to be Forest, Fish and Game Commissioner. The Governor wrote to Mr. Austin the following letter:

"STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, October 5, 1910.

"MY DEAR MR. AUSTIN.—I take pleasure in appointing you Forest, Fish and Game Commissioner for the period which, under the statute, will end twenty days after the commencement of the next meeting of the Senate. The permanent ap-

pointment to fill the vacancy caused by the resignation of Commissioner Whipple must be made after the Senate convenes.

"I fully understand that you would not be willing in any event to take the permanent appointment, and that you will accept this temporary appointment simply on account of the existing exigency.

"You and your associate, Mr. Clark, have completed a most careful and thorough examination of the department under my appointment as Commissioners of investigation, and for a long period your time and energy have been given unreservedly to this important work. Your investigation has disclosed conditions which require immediate rectification and I know of no one so well qualified as yourself to take the office at this time and to administer its affairs until the convening of the Senate. I highly appreciate your willingness to forego your personal inclination and at my urgent request to accept the appointment.

"In view of the full report that you have made as to existing conditions, and your thorough acquaintance with the demands of the department, it is unnecessary for me to say more than that it is my most earnest wish that the recommendations contained in your report shall be carried out at the earliest opportunity and all needed remedies in administration supplied. In the endeavor to accomplish these results I am assured that you will have the co-operation of the other members of the Forest Purchasing Board.

"I remain,

"Very sincerely yours,

"(Signed) "CHARLES E. HUGHES.

"Hon. H. LEROY AUSTIN,

"Catskill, N. Y."

Proceedings for the Removal of the County Clerk of Cortland County*

Charges by Levi R. Chase were laid before the Governor on^{*} March 16, 1910.

NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against Luke J. McEvoy, Clerk
of the County of Cortland.*

TO LUKE J. MCEVOY, *County Clerk of the County of Cortland:*

You are hereby notified that charges have been preferred against you, and that your removal from the office of county clerk of the county of Cortland thereon has been asked by Levi R. Chase.

A copy of such charges is herewith served upon you.

I hereby fix the 28th day of March, 1910, at noon, as the date on or before which your answer to said charges shall be filed with me; and you are further notified that on said 28th day of March, 1910, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed the Privy Seal of the State at the
[L.S.] Capitol in the city of Albany this sixteenth day of
March in the year of our Lord one thousand nine
hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

*A hearing was given by the Governor on the charges on March 28, 1910.

Appointment of Commissioner Baker

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of Charges preferred against Luke J. McEvoy,
County Clerk of the County of Cortland.*

APPOINTMENT OF COMMISSIONER.

Charges having been filed with me on the 16th day of March, 1910, by Levi R. Chase against Luke J. McEvoy, county clerk of the county of Cortland, with a petition that he be removed from his office of county clerk of the county of Cortland, and a copy thereof having been served upon said Luke J. McEvoy, who has filed an answer to said charges,

Now, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint Benjamin Baker, Jr., of the city of Binghamton, a Commissioner to examine witnesses and take evidence as to the truth of said charges, and I hereby direct said Commissioner to report to me the said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this fifteenth
[L.S.] day of April in the year of our Lord one thousand
nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

ORDER DISMISSING CHARGES

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

In the Matter of the Charges against Luke J. McEvoy, County Clerk of Cortland County.

An application for the removal of Luke J. McEvoy from the office of county clerk of Cortland county having been made by Levi R. Chase, upon charges verified March 16, 1910; and the said Luke J. McEvoy having made answer thereto; and the Hon. Benjamin Baker, Jr., having been appointed by me as Commissioner to take testimony and report to me; and the said Commissioner having duly taken the evidence of the parties, and having duly made his report thereon,

Now, After consideration of the said charges, the evidence submitted thereon, and the said report, it is hereby

ORDERED, That the said charges against Luke J. McEvoy be, and the same hereby are, dismissed.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this fifth day
[L.S.] of October in the year of our Lord one thousand
nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

GOVERNOR'S OPINION

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, October 5, 1910.

*In the Matter of the Charges against Luke J. McEvoy,
County Clerk of Cortland County.*

The record in this proceeding, and the findings of the Commissioner, clearly show that in December, 1903, a gross fraud

was perpetrated upon the people of the State in the improper drawing of the panels of grand and petit jurors to serve at the term of the Supreme Court appointed to be held in Cortland county in the following January. A crime of this sort, striking as it does at the foundation of our institutions, cannot be too strongly condemned; and this revelation of the fact and of the circumstances of its commission should heighten the general appreciation of the enormity of the offense and evoke a determination to prevent such practices.

But Luke J. McEvoy, the present county clerk of Cortland county, whose removal is sought in this proceeding, was not a party in any way to the commission of that crime and had no knowledge of it until shortly before the election of 1909. It was the candidate opposed to McEvoy at that election who, being deputy county clerk in 1903, with the then county clerk, participated in the wrongful preparation and drawing of said panels of jurors.

However desirable it may be to put an end to jury fixing, and however strongly those concerned in the offense disclosed by the record may be reprobated, the question in this proceeding is whether Luke J. McEvoy has been guilty of such misconduct as would justify the Governor in removing him from the office to which he has been elected by the electors of his county.

There is no jurisdiction more important than that of the Executive in the exercise of his power to remove faithless officials locally elected. While this power should be exercised where serious misconduct or gross breach of duty is shown, it is equally important that it should be exercised with a due sense of the gravity of the question involved and consistently with the right of the local community to be served by the officers of its choice until convincing evidence is furnished of conduct clearly justifying removal.

I have examined the evidence in this proceeding, and the report of the Commissioner, who has served ably and conscientiously, and I am unable to find sufficient ground for the removal of the respondent from his office.

That Mr. McEvoy has enjoyed a high degree of public confi-

dence in his community, that he has been reputed to be a man of probity, possessing suitable qualifications for the offices to which he has been chosen, and that he has given satisfaction in the discharge of his official duties, is abundantly shown. He has repeatedly been elected to office in a county generally represented by those of the opposite political party. He is 39 years old; was raised on a farm; attended school and taught school until 1899. In the fall of 1899 he was elected school commissioner of the first district of Cortland county for the term commencing January 1, 1900. He was re-elected to that office in the fall of 1902 for the term of three years ending December 31, 1905. In the fall of 1906 he was elected county clerk for the term commencing January 1, 1907, and he was re-elected county clerk for the term of three years at the last election in November, 1909.

This proceeding was instituted in March, 1910, shortly after the respondent began to serve his new term. No charge was made of any neglect in the discharge of the duties of his office. Nor is there any charge of any misconduct in the course of his administration of his office, unless his action with respect to the evidence of jury fixing, which came to his notice shortly before the election of 1909, can be regarded as such misconduct.

It is manifest that the respondent cannot properly be removed from office merely because that on the last day of a campaign, under the advice of his friends and political associates, he decided not to publish a circular setting forth the information as to the jury fixing in 1903 which had been disclosed to him the day before. However commendable it might have been for him to issue such a circular, or to take any particular course of action which may now be suggested, to direct suitable attention to the matter, it cannot well be said, in view of the circumstances here disclosed, that he should lose his office because of his failure to do so. Under the strain of political campaigns it is not always easy to reach wise decisions as to the best course to pursue. While corrupt conduct and illicit promises and arrangements should be severely condemned, it is a very different thing to forfeit an office because the successful candidate had not disclosed something which he had learned

about his opponent, much less because he had not disclosed it in some particular way. Nor, having decided in the first instance to publish the circular giving the account of the jury fixing of which he had been informed, was he bound to go on with the publication. The respondent had the same liberty to decide that he would not go on with the publication as he had to decide that he would not undertake it. If he preferred to withdraw the circular and say what he thought best to say by word of mouth, he was free to do so.

The question then, in this case, is not as to the mere withdrawal from publication of the circular which he had contemplated issuing, but whether he made a corrupt or improper agreement regarding the matter which had been brought to his attention, and thus subjected himself to removal because of the relation of that agreement to his election for the term which he is now serving.

I have considered the evidence as to the admissions of McEvoy upon which largely the conclusion of the Commissioner has been based, and the transactions and payments which it is urged have not been adequately explained. But, taken in connection with the rest of the testimony, I do not think that they afford sufficient basis for the sustaining of the charges. The making of the alleged agreement is without satisfactory affirmative proof and it is positively denied. There is a failure of proof that the alleged agreement was carried into effect by efforts to throw the election to McEvoy. The mere fact that McEvoy was elected is not such proof; he had been elected before to the same office and in view of the circumstances his re-election is readily accounted for apart from such an agreement. It was inevitable that rumors should have been afloat in the county as to the jury fixing and the part which the opposing candidate had played in it, and that these should result in a serious effect upon his candidacy. It does not satisfactorily appear that votes were cast for McEvoy under any instructions given pursuant to the alleged agreement; or that there were any such instructions; or that voters were bribed, intimidated or deceived; or that anything was said to them by McEvoy or by any one acting with his authority or on his behalf that was not true.

While the circulars which were prepared were destroyed, neither the affidavit to which they referred and which described the transaction in drawing the jury in December, 1903, nor the photographic plates showing the condition of the jury box at that time were destroyed. They have remained in the possession of an attorney, a friend and adviser of McEvoy, and were produced upon the hearing before the Commissioner.

Nor, properly speaking, can it be said that the information itself was actually suppressed. For it sufficiently appears that to a considerable degree it was circulated by McEvoy by word of mouth immediately after the plan of publishing the circular had been given up. While apparently he did not go, in making his statements, into the precise detail of the narrative contained in the affidavit, he went far enough to give an idea of the sort of information he had, and he went so far that it would have been a simple matter, as it was in this proceeding, for any officer of the law to get quickly at the evidence which McEvoy possessed.

The retention of Harrington has not been made the basis of a charge as contemplated by the Constitution, and cannot be treated as ground for removal.

There should be the most determined effort to make impossible any tampering with jury lists, to fix responsibility for what has been done in the past, and to punish the guilty. But I do not think that a case has been made which justified ejection from his office of an officer duly elected who, so far as appears, has given faithful administration.

The charges are therefore dismissed.

(Signed)

CHARLES E. HUGHES.

Declaration of a Public Nuisance

Approval of Reports of the State Commissioner of Health Regarding an Alleged Nuisance Affecting Residents of the County of Richmond — The Attorney-General Directed to Bring Actions to Cause the Abatement of Such Nuisances.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

WHEREAS, a complaint was heretofore made to me by certain citizens of the State of New York, resident in the county of Richmond, that within the State of New Jersey, in the city of Bayonne, at Constable Hook in said city, there were then being maintained and operated certain extensive plants, furnaces, smelters, ovens and other appliances engaged in the manufacture of chemicals, the refining of oil, the roasting, reducing, smelting, manufacture and production of sulphur, copper and other ores, chemicals and products, and that such manufacturing plants were then constantly generating and causing to be discharged over the territory comprising Richmond county, vast quantities of noisome and disagreeable smoke, fumes, effluvia, noxious and poisonous vapors and gases which injure or endanger the comfort, repose, health or safety of a considerable number of persons, citizens of Richmond county, and render them insecure in life or the use of property, and which in traversing over the Kill von Kull, a navigable stream separating the county of Richmond from the State of New Jersey, unlawfully interfere with, obstruct or tend to obstruct or render dangerous for passage the said Kill von Kull; and,

WHEREAS, On the 17th day of November, 1908, I, as Governor of the State of New York, pursuant to law, did require, order and direct the State Commissioner of Health to examine into the matters alleged in the said complaint and into the questions affecting the security of life and health in the locality aforesaid in the county of Richmond, and report to me the results of such examination; and,

WHEREAS, The said State Commissioner of Health on the 17th day of December, 1908, being within the time prescribed

by me therefor, reported that he had made the required examination and the results thereof, and in said report made and certified his findings; and,

WHEREAS, Thereafter and on the 14th day of October, 1909, I, as Governor of the State of New York, pursuant to law, did require, order and direct the said State Commissioner of Health to make a further examination into the matters alleged in the aforesaid complaint and to report to me the results of such further examination; and,

WHEREAS, The said State Commissioner of Health thereafter made the required examination and reported the results thereof to me within the limit of time prescribed by me therefor, and in and by said report, upon the basis of the results and reports of both said investigations, made and certified the following findings, as set forth in said report, to wit:

“Owing to the supplementary nature of the present investigation, and to the close relationship which any conclusions based thereon must naturally bear to the findings and conclusions deduced from any former investigation and in order to make the conclusions herewith given more comprehensive and complete, I will include as a basis for them the results and reports of both investigations.

“In view of the foregoing, then, I hereby find and certify:

“1. That on Constable Hook in the city of Bayonne in the State of New Jersey, there are located and maintained a number of corporations and industrial plants, some of which are engaged in the refining of oils, the manufacture of chemicals, the smelting and refining of ores and other operations of a similar or allied nature.

“2. That from the stacks and buildings of certain of these plants smoke gases, fumes and vapors are emitted either continuously or intermittently, which, under certain atmospheric conditions, descend and pass over Richmond county and the Kill von Kull.

“3. That these smoke gases, fumes and vapors are

emitted in large quantities and contain, in addition to the smoke of combustion of coal, coke and oils, certain fumes and gases containing compounds of sulphur, nitrogen and arsenic.

- “ 4. That these smoke gases, fumes and vapors are generally of an objectionable, disagreeable and injurious nature which affect the free passage of light, offend the senses of sight and smell, irritate the throat and interfere with breathing, and poison and injure vegetation.
- “ 5. That according to the statistics secured from the U. S. Weather Bureau for this district covering a period of about three years, it is estimated that there were about 200 days, representing about 18 per cent of the number of days included in this period, in which the direction of the wind and other atmospheric conditions were such as to cause the smoke gases, fumes and vapors to descend and pass over and upon the Kill von Kull.
- “ 6. That when these smoke gases, fumes and vapors descend and pass over and upon Richmond county and the Kill von Kull, a public nuisance is created in said county of Richmond and upon the Kill von Kull by reason of the offensive, irritating, poisonous and otherwise objectionable and injurious nature of said smoke gases, fumes and vapors.
- “ 7. That the plants largely, if not wholly, responsible for the conditions above referred to and the resultant nuisance are the Bergenport Chemical Company, the General Chemical Company, the Standard Oil Company, the Tidewater Oil Company, and the Orford Copper and Sulphur Company.
- “ 8. Of these five plants thus responsible for these conditions, the plants of the Bergenport Chemical Company, the Standard Oil Company and the Orford Copper and Sulphur Company are, in my

opinion, owing to the character of the products manufactured, the magnitude of the operations carried on within the plants and the relative distances of these plants with reference to Richmond county, more largely responsible for the nuisance in Richmond county and on the Kill von Kull than are the plants of the General Chemical Company and the Tidewater Oil Company.

- “9. That within the limited time available for making the investigations of last year and of this year, and without a more comprehensive and complete investigation carried on over at least one season, and possibly a number of seasons, it is impracticable to differentiate at this time with any degree of accuracy, or even approximately, the real share of responsibility which these five plants have in the nuisance created in Richmond county and on the Kill von Kull.
- “10. That the plants of the Columbia Oil Company, the Pacific Coast Borax Company, the Bergenport Sulphur Company and the corporations of Fenaille & Despeaux, F. W. Devoe and C. T. Reynolds are not to any appreciable extent responsible for the conditions above referred to and the resultant nuisance.
- “11. That subsequent to my investigation of a year ago certain changes have been made in the construction and operation of the plants of the General Chemical Company and the Standard Oil Company, which in the case of the Standard Oil Company has somewhat lessened the share which that company was responsible for the conditions above referred to, but which in the case of the General Chemical Company has somewhat increased the share which that company was responsible for said conditions.
- “12. That no other corporations or individuals on Constable Hook in addition to those enumerated in my last report, were found to share in the respon-

sibility for the nuisance created in Richmond county and on the Kill von Kull.

“In view of the results of the two investigations made by me in 1908 and 1909 respectively, and the findings and conclusions based thereon as above set forth, and notwithstanding the changes in construction and operation in certain plants on Constable Hook made during the period intervening between these two investigations, I hereby again find and certify that the conditions existing in the county of Richmond, and on the Kill von Kull constitute a public nuisance for the reason that smoke gases, fumes and vapors are emitted from certain plants located on Constable Hook in the city of Bayonne in the State of New Jersey; and that said smoke gases, fumes and vapors annoy, injure and endanger the comfort, repose, health and safety of a considerable number of persons and render a considerable number of persons insecure in the use of property.

“Respectfully submitted,
“(Signed) EUGENE H. PORTER,
“*Commissioner of Health.*”

NOW, THEREFORE, I, Charles E. Hughes, Governor of the State of New York, pursuant to the authority in me vested, do hereby approve the said reports of said State Commissioner of Health, and each of them, and I do hereby declare the matters public nuisances which are found and certified in said reports to be nuisances, and I do hereby order and direct the Attorney-General of the State of New York to bring such actions, suits and proceedings to cause the abatement of such nuisances as may be proper in the premises.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this ninth
[L.S.] day of June in the year of our Lord one thousand
nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

Proceedings for the Removal of the Sheriff of the County of Chemung

Charges by Ralph M. Geddes, Courtland F. Carrier, Harrison S. Chapman, R. Lew Williams, and Charles H. McKnight were laid before the Governor on June 12, 1910.

NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against T. Stanley Day, Sheriff
of the County of Chemung.*

To T. STANLEY DAY, *Sheriff of the County of Chemung:*

You are hereby notified that charges have been preferred against you, and that your removal from the office of sheriff of the county of Chemung thereon has been asked, by Ralph M. Geddes, Courtland F. Carrier, Harrison S. Chapman, R. Lew Williams and Charles H. McKnight.

A copy of such charges is herewith served upon you.

I hereby fix the 21st day of June, 1910, at noon, as the date on or before which your answer to said charges shall be filed with me at the Executive Chamber; and you are further notified that on said 21st day of June, 1910, at noon, at the Executive Chamber, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Privy Seal of the State at the
[L.S.] Capitol in the city of Albany this thirteenth day of June in the year of our Lord one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

ORDER DISMISSING CHARGES

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, N. Y. July 11, 1910.

BEFORE THE GOVERNOR.

*In the Matter of the Charges preferred against T. Stanley Day,
Sheriff of Chemung County.*

Charges of neglect of official duty having been preferred against T. Stanley Day by Ralph M. Geddes, Courtland F. Carrier, Harrison S. Chapman, R. Lew Williams and Charles H. McKnight, and a copy of such charges having been served upon and given to said T. Stanley Day; and he having thereafter been given an opportunity of being heard in his defense, and the petitioners and the respondent having agreed upon a statement of the facts in the matter;

NOW, THEREFORE, due deliberation having been had thereon, it is

ORDERED, That the charges be and the same are hereby dismissed, without prejudice to the right to renew the application to remove the sheriff, in the event of failure hereafter on the part of the said sheriff to perform his duty.

(Signed) CHARLES E. HUGHES.

GOVERNOR'S OPINION

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, July 11, 1910.

*In the Matter of the Charges preferred against T. Stanley Day,
Sheriff of Chemung County.*

This is an application by citizens of Chemung county for the removal of the sheriff of that county for his neglect to enforce the law with respect to professional baseball playing, as a public sport, on Sunday.

Since the filing of the sheriff's answer, the material facts have been agreed upon in a statement signed by the sheriff and the petitioners. This statement leaves no doubt as to the public character of the game.

It appears that the Southern Tier Baseball Association of Elmira maintains a baseball club composed of persons engaged in the public playing for money of professional baseball with other clubs constituting the New York State League. This association fitted up grounds near Elmira and announced that games, to which the public were invited, would be played on Sunday from time to time in the spring and summer of 1910. On Sunday, May 15, 1910, May 22, 1910, and on June 12, 1910, public games were played between the baseball club of the Southern Tier Association of Elmira and the clubs known as the Wilkesbarre Baseball Club and the Binghamton Baseball Club respectively. In each case the public were invited and attended, and an admission fee was charged.

The sheriff knew of the playing of these games and was informed in advance of the purpose to hold them. But he did not, in any way, attempt to suppress the games, or to cause the arrest of any persons engaged in them. The sheriff announced that, while he would execute a warrant, if it were placed in his hands, he would not stop Sunday baseball games or make an arrest except on a warrant. In taking this course the sheriff relied on the advice of the county attorney.

That these games, conducted with every incident of public sports, constituted a violation of the law of the State is clear. (Penal Law, §§ 2140, 2145.)

Whenever this question has arisen on such a state of facts as is now presented, but one conclusion has been reached. (*Matter of Rupp*, Supr. Ct. App. Div., 4th Dept., 33 A. D. 468; *People v. Poole*, 44 Misc. 118; *Brighton Athletic Club v. McAdoo*, 47 Misc. 432; *Paulding v. Lanc*, 55 Misc. 37; *Ontario Field Club v. McAdoo*, 56 Misc. 285; *People v. Demcrest*, 56 Misc. 287; *People v. Roach*, 61 Misc. 42.)

This is not a case of mere private pleasure or pastime.

As said by Mr. Justice Gaynor in distinguishing cases of private play from a public game of baseball:

" The complaint is of a public game of baseball: i. e., of a game held out to the public, i. e., of a game to which the public were invited, and to which an admission fee was charged. Is such a game prohibited by statute? I think it is. * * * The prohibition is only against public games and exercises, namely, those to which the public are invited, because the statute presumes that they interrupt the repose of the community; and that is the case against these defendants." (*People v. Poole*, 44 Misc. 118.)

So, Mr. Justice Kelly in declining to continue an injunction restraining the police in Brooklyn from interfering with public games of baseball on Sunday, said:

" It is not contended that the Legislature has prohibited recreation or healthy sport which does not invade the sanctity of the day in the sections of the Code referred to. Mr. Justice Gaynor discusses the matter at some length in the case cited, and I agree that there is no prohibition against the man who is forced to labor during the week-days preventing him from enjoying himself in an orderly and decent manner on Sunday, so long as the repose of the community is not interrupted. But the prohibition is clear against Sunday games which are advertised, to which the general public are invited and which they attend in great numbers and to witness which money is charged directly or indirectly or which are conducted for financial profit. This is not the wholesome recreation of the individual which the law will not prevent — it may be sport, but it is a public sport and a quasi-business undertaking." (*Brighton Athletic Club v. McAdoo*, 47 Misc. 432.)

There was thus a clear violation of law under conditions which were notorious. The offense, by its very nature, was not secret or elusive, or attended with difficulties in obtaining evidence.

When the sheriff learned of the announced purpose to hold these public games on Sunday, it was his duty as the peace

officer of the county to take proper steps to prevent the games and to apprehend those who violated the law. In view of the open and notorious character of the offense, and the knowledge brought home to him, he could not properly throw upon private citizens the burden of procuring warrants and of placing them in his hands for execution. It was his duty to maintain the peace of his county according to the law and to employ the means at his command as sheriff to that end.

In *Matter of Rupp* (33 A. D. 468) the Appellate Division of the Supreme Court (4th Dept.) thus ruled in a similar case with regard to the duty of the police commissioners of the city of Buffalo with respect to public games of baseball on Sunday. The court said:

"It clearly appears from the record before us that during the spring and summer of 1897 and 1898, and before the filing of the petition herein, games of baseball were played in the usual manner at Franklin square, a public place in the city of Buffalo, repeatedly on Sunday; that the police commissioners and police force under their control had knowledge of these facts, and did not suppress the ball playing or make arrests therefor, with a single exception which will be noted hereafter. Large crowds attended these games as spectators, from whom an admission fee was collected. * * * The commissioners instructed their subordinates not to arrest those who participated in the baseball playing on Sunday, unless a warrant was issued for their arrest, which the commissioners deemed the proper course to pursue in the matter. * * * A peace officer may without a warrant arrest a person for a crime committed or attempted in his presence. (Code Crim. Proc., § 177) * * * The attention of the police commissioners and their subordinates having been called to these games and their expected occurrence on Sunday, it was the duty of the police to attend upon the games and to suppress them by the arrest of the guilty parties."

In the case last cited, as here, the proceeding was for the removal of the delinquent officer. There the court found that

the duty of the police commissioners had not been performed, but that on account of the attitude of the police magistrates it appeared that the commissioners had "acted in good faith and without any intention to violate the law." The court therefore concluded "not to make the removal at present, but to permit them to continue in office with the plain admonition as to their duties in the future."

There should be no difference of opinion as to the importance of the faithful enforcement of the law by the established agencies of administration. But in determining whether a public officer shall be removed from office for his neglect, it is also important and necessary that all the circumstances should be fairly taken into account.

While the sheriff has failed to perform his duty, it nevertheless sufficiently appears that he has not intentionally violated the obligations of his office. He has acted in accordance with the advice of the county attorney and I shall assume, on this record, that he has thus far acted in good faith.

I do not mean that the mere fact that a sheriff acts on such advice must be regarded as an absolute defense to a proceeding for removal. Such a view would be subversive of the Constitution. For the Constitution charges the Governor with the duty of seeing that the laws are faithfully executed, and to enable him to perform this duty has expressly vested him with the power to remove sheriffs, upon charges, after giving them an opportunity to be heard in their defense.

If the advice of the county attorney in itself were an absolute protection to the sheriff in all circumstances, the Governor's power of removal could readily be nullified.

On the other hand, the quality of the sheriff's neglect is necessarily to be considered in determining whether he should be removed. And his reliance upon the advice of the county attorney in the circumstances shown is persuasive as to his freedom from wrong intention or wilful disregard of duty in the present case.

In this view I conclude that the sheriff should not be removed from office by reason of the course he has taken up to this time. The present petition therefor will not be sustained.

If hereafter the sheriff fails to perform his duty, the matter may be presented by another petition based upon such neglect.

And this petition accordingly is dismissed without prejudice to that course.

(Signed) CHARLES E. HUGHES.

Proceedings for the Removal of Notaries Public

Charges under date of April 25, 1910, were laid before the Governor by George J. Kneeland, against Rubin Auerbach, Isaac Bier, Herman Borsig, Jr., Samuel S. Friedman, Mary Kelly, Bertha Pelikan, Emanuel J. Pelikan, Francis Joseph Spieler, Samuel Weingarten, Samuel L. Zuckerman and Jacob Zunser, notaries public of New York county, Aaron Finesilver, William C. Jones, Joseph Solotovsky and Solomon Sufrin, notaries public of Kings county, and Charles Bresloff and Frank Motl, notaries public of Queens county.

NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of Charges Preferred against Rubin Auerbach,
Notary Public, County of New York.*

TO RUBIN AUERBACH, *Notary Public, County of New York:*

You are hereby notified that charges have been preferred against you by George J. Kneeland, asking that you be removed from the office of notary public for the county of New York. A copy of said charges, hereto annexed, is herewith served upon and given to you.

I hereby fix the 1st day of August, 1910, at noon, as the date on or before which your answer to said charges shall be filed with me at the Executive Chamber; and you are further notified that on said 1st day of August, 1910, or on such later

day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand
'and affixed the Privy Seal of the State at the
[L.S.] Capitol in the city of Albany this twentieth day
of July in the year of our Lord one thousand nine
hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

The above, upon a similar complaint, by Mr. Kneeland, was also served upon the following notaries public:

Isaac Bier, New York county.
Herman Borsig, Jr., New York county.
Charles Bresloff, Queens county.
Aaron Finesilver, Kings county.
Samuel S. Friedman, New York county.
William C. Jones, Kings county.
Mary Kelly, New York county.
Frank Motl, Queens county.
Bertha Pelikan, New York county.
Emanuel J. Pelikan, New York county.
Joseph Solotovsky, Kings county.
Francis Joseph Spieler, New York county.
Solomon Sufrin, Kings county.
Samuel Weingarten, New York county.
Samuel L. Zuckerman, New York county.
Jacob Zunser, New York county.

Governor Hughes gave a hearing to such of the above named notaries public as desired to be heard in their defense on August 1, 1910.

Appointment of Commissioner Sandford.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges Preferred against Isaac Bier,
Notary Public, New York County.*

APPOINTMENT OF COMMISSIONER.

Charges, dated April 25, 1910, having been filed with me by George J. Kneeland against Isaac Bier, a notary public of New York county, with a prayer that he be removed from his office of notary public in and for New York county; and

A copy of such charges having been given to said Isaac Bier;

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint Edward Sandford, Esq., of the city of New York, to take evidence as to the truth of said charges.

And I hereby direct said commissioner to report to me said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this fourteenth
[L.S.] day of August in the year of our Lord one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

Similar charges were preferred against the notaries named below by George J. Kneeland under date of April 25, 1910, and Edward Sandford of New York city was appointed to take evidence as to the truth of said charges:

Herman Borsig, Jr., Mary Kelly, Bertha Pelikan, Emanuel J. Pelikan, notaries public, New York county.

William C. Jones, Joseph Solotovsky, Solomon Sufrin, notaries public, Kings county.

Charles Bresloff, Frank Motl, notaries public, Queens county.

APPOINTMENT OF COMMISSIONER SANDFORD

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

In the Matter of the Charges Preferred against Samuel Weingarten, Notary Public, New York County.*

APPOINTMENT OF COMMISSIONERS

Charges, dated April 25, 1910, having been filed with me by George J. Kneeland against Samuel Weingarten, a notary public of New York county, with a prayer that he be removed from his office of notary public in and for New York county; and

A copy of such charges having been given to said Samuel Weingarten;

NOW, THEREFORE, pursuant to the statute in such case made and provided, I do hereby appoint Edward Sandford, Esq., of the city of New York to take evidence as to the truth of said charges.

And I hereby direct said commissioner to report to me said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this tenth day
[L.S.] of August in the year of our Lord one thousand
nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

* Mr. Weingarten resigned his office of notary public on September 10, 1910, before the report of the commissioner was submitted.

NOTICE AND SUMMONS.*

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

In the Matter of the Charges against Solomon Sufrin, Notary Public, Kings County.

TO SOLOMON SUFRIN, *Notary Public, Kings County.*

SIR.— You are hereby notified that upon the charges made against you by George J. Kneeland, a copy of which has been served upon you, and upon your answer thereto, and upon the report of Edward Sandford, Esq., commissioner appointed by me by commission dated August 4, 1910, to take evidence as to the truth of said charges, and upon the evidence taken before the said commissioner, you will be heard before me in your defense at the Executive Chamber at the Capitol, in the city of Albany, on the twenty-ninth day of September, 1910, at twelve o'clock noon.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L.S.] fourth day of September in the year nineteen hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

*A similar "notice and summons," in relation to charges preferred by George J. Kneeland, was also addressed by the Governor on this date to the following named notaries public:

Emanuel J. Pelikan of New York county.

Bertha Pelikan of New York county.

Isaac Bier of New York county.

Mary Kelly of New York county.

William C. Jones of Kings county.

Joseph Salotovsky of Kings county.

CHARGES NOT SUSTAINED

Dismissal of Charges against Frank Motl and Charles Bresloff, Notaries Public of Queens County, and Herman Borsig, Jr., a Notary Public of New York County*

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, October 5, 1910.

BEFORE THE GOVERNOR.

*In the Matter of Charges Preferred against Frank Motl,
Notary Public, Queens County.*

Charges of misconduct in office having been preferred against Frank Motl, notary public, Queens county, by George J. Kneeland, and a copy of said charges having been given to said Frank Motl on July 23, 1910, and the said Frank Motl having made answer thereto, and the Hon. Edward Sandford having been appointed by me commissioner to take evidence as to the truth of said charges and to make report, and the said commissioner having taken the evidence and made a report recommending that Frank Motl be not removed from office ;

Now, after consideration of the said charges, the evidence pertinent thereto, and the said report, the said charges are hereby dismissed.

(Signed) CHARLES E. HUGHES.

*A similar charge brought by Mr. Kneeland against Charles Bresloff, a notary public of Queens county, and Herman Borsig, Jr., a notary public of New York county, was dismissed by the Governor on the same day, October 5.

Order of Removal of Rubin Auerbach, Jacob Zunser and Samuel S. Friedman, Notaries Public of New York County*

ORDER OF REMOVAL

STATE OF NEW YORK — EXECUTIVE CHAMBER.

*In the Matter of Charges preferred against Rubin Auerbach,
Notary Public, New York County.*

Charges of misconduct in office having been preferred against Rubin Auerbach, notary public, New York county, by George J. Kneeland, and a copy of said charges having been given to said Auerbach on July 21, 1910, and he having been duly afforded an opportunity to be heard in his defense, and said Auerbach having failed to make any defense thereto, and evidence to sustain the charges having been taken before me,

NOW, THEREFORE, It appearing to my satisfaction that the charges of misconduct in office are substantially true, and that the public interest requires it, it is hereby

ORDERED, That Rubin Auerbach be and hereby is removed from the office of notary public in and for the county of New York.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this fifth day
[L.S.] of October in the year of our Lord one thousand
nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

* Orders of removal were also signed by the Governor on October 5, 1910, on charges preferred by Mr. Kneeland against Jacob Zunser and Samuel S. Friedman, notaries public of New York county.

Order of Removal of Isaac Bier, Mary Kelly, Bertha Pelikan and Emanuel J. Pelikan, Notaries Public of New York County, and William C. Jones, Joseph Solotovsky and Solomon Sufrin, Notaries Public of Kings County*

ORDER OF REMOVAL

STATE OF NEW YORK — EXECUTIVE CHAMBER.

In the Matter of Charges Preferred against Isaac Bier, Notary Public, New York County.

Charges of misconduct in office having been preferred against Isaac Bier, notary public, New York county, by George J. Kneeland, and a copy of said charges having been given to said Isaac Bier on July 23, 1910, and an answer to said charges having been filed by him, and the Hon. Edward Sandford having been appointed by me commissioner to take evidence relating to said charges, and the report of the commissioner, together with the evidence taken by him, having been filed with me, and said Isaac Bier having been duly heard before me in his defense,

NOW, THEREFORE, It appearing to my satisfaction that the charges of misconduct in office are substantially true, and that the public interest requires it, it is hereby

ORDERED, That Isaac Bier be and he hereby is removed from the office of notary public in and for the county of New York.

GIVEN under my hand and the Privy Seal of the State at the Capitol in the city of Albany this fifth day

[L.S.] of October in the year of our Lord one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,

Secretary to the Governor.

*Upon similar charges preferred by Mr. Kneeland, the Governor on October 5, 1910, removed the following named notaries public: Isaac Bier, Mary Kelly, Bertha Pelikan and Emanuel J. Pelikan, notaries public of New York county, and William C. Jones, Joseph Solotovsky and Solomon Sufrin, notaries public of Kings county.

Proceedings for the Removal of the President of the Borough of Queens

Charges by Charles Pope Caldwell, Arthur E. Keating and William F. Mathews were laid before the Governor on July 22, 1910.

NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of Charges Preferred against Lawrence Gresser,
President of the Borough of Queens of the City of New
York.*

TO LAWRENCE GRESSER, *President of the Borough of Queens
of the City of New York:*

You are hereby notified that charges have been preferred against you by Charles Pope Caldwell, Arthur E. Keating and William F. Mathews, praying that you be removed by the Governor from the office of president of the borough of Queens of the city of New York.

A copy of such charges is herewith served upon you.

I hereby fix the second day of August, 1910, at noon, as the date on or before which your answer to said charges shall be filed with me at the Executive Chamber; and you are further notified that on said second day of August, 1910, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Privy Seal of the State at the
[L.S.] Capitol in the city of Albany this twenty-second day of July in the year of our Lord one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

Appointment of Commissioner Ordway

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

In the Matter of the Charges Preferred by Charles Pope Caldwell, William F. Mathews and Arthur E. Keating against Lawrence Gresser, President of the Borough of Queens of the City of New York.

APPOINTMENT OF COMMISSIONER

Charges having been filed with me on July 22, 1910, by Charles Pope Caldwell, William F. Mathews and Arthur E. Keating against Lawrence Gresser, President of the Borough of Queens of the City of New York, with a petition that he be removed from his office of President of the Borough of Queens of the City of New York, and a copy thereof having been served upon said Lawrence Gresser, who has filed an answer to said charges, with supporting affidavits,

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint

SAMUEL H. ORDWAY, ESQ.,

of the city and county of New York, a commissioner to examine witnesses and take evidence as to the truth of said charges, and I hereby direct said commissioner to report to the Governor the said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State at the Capitol in the city of Albany this twentieth

[L.S.] day of September in the year of our Lord one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

Second Notice and Summons

Charges by Charles A. Brodek and others were laid before the Governor on August 2, 1910.

NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of Charges Preferred against Lawrence Gresser,
President of the Borough of Queens of the City of New
York.*

TO LAWRENCE GRESSER, *President of the Borough of Queens
of the City of New York:*

You are hereby notified that charges have been preferred against you by Charles A. Brodek and others, praying that you be removed by the Governor from the office of president of the borough of Queens of the city of New York.

A copy of such charges is herewith served upon you.

I hereby fix the eleventh day of August, 1910, at noon, as the date on or before which your answer to said charges shall be filed with me at the Executive Chamber; and you are further notified that on said eleventh day of August, 1910, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this third day
[L.S.] of August in the year of our Lord one thousand
nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

APPOINTMENT OF COMMISSIONER ORDWAY.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

In the Matter of the Charges Preferred by Charles A. Brodek, Harry T. Huchberger, William S. Pettit, Alois Gutwillig, Joseph L. Steinam, D. L. Starks, P. A. Conne, Julius Preis, Samuel Kubie, Oliver Whitson, Valentine W. Smith and Joseph Fried, Governors of The Progress Society of the Rockaways, against Lawrence Gresser, President of the Borough of Queens of the City of New York.

APPOINTMENT OF COMMISSIONER

Charges having been filed with me on August 2, 1910, by Charles A. Brodek, Harry T. Huchberger, William S. Pettit, Alois Gutwillig, Joseph L. Steinam, D. L. Starks, P. A. Conne, Julius Preis, Samuel Kubie, Oliver Whitson, Valentine W. Smith and Joseph Fried, Governors of The Progress Society of the Rockaways, against Lawrence Gresser, president of the borough of Queens of the city of New York, with a petition that he be removed from his office of president of the borough of Queens of the city of New York and a copy thereof having been served upon said Lawrence Gresser, who has filed an answer to said charges, with supporting affidavits,

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint

SAMUEL H. ORDWAY, Esq.,

of the city and county of New York, a commissioner to examine witnesses and take evidence as to the truth of said charges, and I hereby direct said commissioner to report to the Governor the said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twentieth
[L.S.] day of September in the year of our Lord one thou-
sand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

Letter of Counsel to the Governor

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, July 18, 1910.

MESSRS. H. T. WEEKS, JOHN A. RAPELYE, *Committee, Queens
County Grand Jury, Bayside, N. Y.:*

DEAR SIRs.— Referring to your communication under date of
the 14th instant with respect to the removal of the borough
president of the borough of Queens, Governor Hughes directs
me, in confirmation of what he has already said to you orally,
to say:

Under the provisions of the Greater New York charter (Sec-
tions 382; 122) a president of a borough may be removed by
the Governor in the same manner as a sheriff. The Constitu-
tion of the State (Article X, section 1), provides that a sheriff
may be removed by the Governor upon charges after he has had
an opportunity to be heard in his defense. The statute, with its
reference to the Constitution, contemplates the presentation of
definite charges with suitable specifications as to misconduct or
neglect of duty, and the removal of the officer only where it ap-
pears, after due hearing, that the charges have been sustained.

If the charges in proper form are presented to the Governor
he will give them careful consideration, and will take such ac-
tion as their gravity may warrant.

Very truly yours,

(Signed) ROGER P. CLARK,
Counsel to the Governor.

X

**COMMUTATIONS, REPRIEVES AND EXTRADITION
CASES**



X

COMMUTATIONS, REPRIEVES AND EXTRADITION CASES

Statement of Commutations and Reprieves Granted by Governor Hughes During the Year 1910

COMMUTATIONS

March 19. Guiseppe Massario. Sentenced November 16, 1908; county, New York; crime, assault, second degree; term, minimum four years, maximum four years and six months; Sing Sing Prison.

Commutated to one year, four months and one day.

The prisoner has been identified as Vincenzo Bedelia under indictment in the county of New Haven, State of Connecticut, for conspiracy to murder and assault with intent to murder. Pursuant to the request of the State's Attorney of New Haven county, Connecticut, the Governor of that State has made requisition for the return of the prisoner as a fugitive from justice; and it appearing to me that the interests of justice demand it, I have commuted his sentence here to the actual time served, and have ordered that he be surrendered to the Connecticut authorities.

(In Connecticut the accused pleaded guilty to the crime of assault with intent to murder, and was sentenced by the court on April 12, 1910, to imprisonment in the State Prison for not less than twenty years, and not more than twenty-six years.)

March 25. Floyd Lewis. Sentenced November 8, 1909; county, Franklin; crime, public intoxication; term, six months; Onondaga County Penitentiary.

Commutated to four months and sixteen days.

This was granted upon the recommendation of the county judge who imposed the sentence on the ground that in view of the circumstances of the offense sufficient punishment has been inflicted.

April 25. Adolphus Newton. Sentenced November 3, 1909; county, Chenango; crime, grand larceny, second degree; term, minimum one year, maximum one year and ten months; Auburn Prison.

Commutated to five months and twenty-two days.

Granted upon the recommendation of the county judge and district attorney—it also appearing that the prisoner is in serious condition physically and likely to live but a short time.

(Newton died a few days after being released).

May 13. William J. Koerner. Sentenced March 15, 1898; county, New York; crime, murder, second degree; term, life; Auburn Prison.

Commutated to twelve years, one month and twenty-eight days.

The prisoner was convicted of murder in the second degree in March, 1898, and has been in confinement about twelve years. It is unnecessary to review the facts of the crime or the course of the long-protracted legal proceedings.

It sufficiently appears that this is one of the exceptional cases in which the interests of justice will be served by granting clemency. The prisoner has fairly earned his release by his service to the State in connection with the important duties to which he has been assigned in the prison, and the fidelity which he has conspicuously shown. For many years he has served as the confidential clerk of the deputy warden in addition to his work as editor of the *Star of Hope*. His assistance in the maintenance of discipline has been of great value, and the application for this commutation finds abundant support in the reports made to me by the prison authorities.

May 24. DeWitt B. Thompson. Sentenced April 23, 1908; county, Westchester; crime, burglary, third degree; term, four years; Sing Sing Prison.

Commutated to two years, one month and one day.

Granted upon the recommendation of the county judge and district attorney — it appearing that the prisoner is suffering from advanced pulmonary tuberculosis and is expected to live but a short time, and his mother being in a position to provide, and promising, suitable care.

September 20. Norman Luchowitz. Sentenced January 29, 1910; county, Sullivan; crime, violating section 405 of the Penal Law; term, eleven months; Sullivan County Jail.

Commutated to seven months and twenty-one days.

This commutation is granted on the recommendation of the special county judge before whom the prisoner was tried, the district attorney and jail physician. It appears that the prisoner is losing his sight, and will lose it completely unless removed. The jail is not a suitable place for his detention in the circumstances, and in view of the time already served it is believed that the interests of justice will not suffer by the commutation.

October 6. George H. Brouwer. Sentenced November 15, 1907; county, New York; crime, grand larceny, first degree; term, minimum three years and nine months, maximum eight years and nine months; Sing Sing Prison.

Commutated to two years, ten months and twenty-one days.

This was granted upon the recommendation of the judge who tried the case, Hon. Otto Rosalsky, who stated that "in view of his age, his hitherto excellent reputation for honesty, and his evident atonement for his misconduct," he was of the opinion that the prisoner had undergone sufficient punishment.

The complainant joined in the petition for clemency.

Reprieves

February 9. Charles Bowser.

Convicted of murder in the first degree, in the county of New York, and sentenced May 17, 1909, to be executed. Conviction affirmed by the Court of Appeals and execution to take place during the week beginning January 3, 1910. Respite until February 28, 1910.

A respite was granted on December 31, 1909, until February 14, 1910, upon the application of Supreme Court Justice Pound, in order to afford sufficient time for the hearing and decision of a motion for a new trial on the ground of newly-discovered evidence.

The further respite was granted, on the same ground, until February 28, 1910.

(The motion for a new trial was denied and prisoner was executed on February 28, 1910.)

February 19. Luigi Gambacorta.

Convicted of murder in the first degree, in the county of Erie, and sentenced January 21, 1908, to be executed. Conviction affirmed by the Court of Appeals and execution to take place during the week beginning February 21, 1910. Respite until March 21, 1910.

A question having arisen as to the sanity of the prisoner, respite was granted to permit proper inquiry to be made.

March 12. Further respite upon the same ground, for the same purpose, was granted until May 23, 1910.

May 20. Further respite upon the same ground, for the same purpose, was granted until June 20, 1910.

On May 26, 1910, pursuant to chapter 338 of the Laws of 1910, which became a law with the Governor's approval on May 21, 1910, amending section 495a of the Code of Criminal Procedure, Albert Warren Ferris, M. D., president of the State Commission in Lunacy, Edward L. Hanes, M. D., assistant physician of the Rochester State Hospital, and Antonio Stella, M. D., of 214 East Sixteenth street, borough of Manhattan,

New York city, were appointed commissioners to examine the prisoner and to make report as to his sanity.

After examination the commissioners made report under date of June 17, 1910, that they had reached "the unanimous conclusion that the said Luigi Gambacorta is insane, his mental condition being characterized by delusions, hallucinations and illusions, and by other conclusive evidences of mental disorder. The mental condition of the said Luigi Gambacorta is such that he does not know the nature and quality of his acts, and is unable to distinguish right from wrong."

Upon said report, on June 18, 1910, order was made for the removal of the prisoner to the Dannemora State Hospital for Insane Convicts, there to remain until restored to his right mind.

May 10. Antonio Fornaro.

Convicted of murder in the first degree, in the county of Rensselaer, and sentenced March 30, 1909, to be executed. Conviction affirmed by the Court of Appeals and execution to take place during the week beginning May 16, 1910. Respite until May 31, 1910.

The respite was granted upon the application of the Consul-General of Italy in order that a petition might be presented for executive clemency.

May 29. A further respite was granted for the same purpose until June 20, 1910.

The petition was received, considered and denied.

June 17. Further respite was granted until June 21, 1910, for the convenience of the prison authorities in making arrangements for the execution.

(The prisoner was executed on June 21, 1910.)

Transferred to Dannemora State Hospital for Insane Convicts

June 18. Luigi Gambacorta.

(Facts stated above.)

September 30. John Bell.

Convicted of murder, first degree, in the county of Richmond, and sentenced May 22, 1907, to be executed. Stayed by appeal.

On July 23, 1910, pursuant to section 495a of the Code of Criminal Procedure, as amended by chapter 338 of the Laws of 1910, Isham G. Harris, M. D., first assistant physician of the Hudson River State Hospital; Frederick W. Parsons, M. D., second assistant physician of the Hudson River State Hospital, and George H. Kirby, M. D., director of Clinical Psychiatry of the Manhattan State Hospital, were appointed commissioners to examine the prisoner and to make report as to his sanity.

The commissioners reported on September 26, 1910, that they had reached the opinion that the said John Bell is "insane and that we believe he suffers from a mental disease known as dementia praecox of the paranoid form — that his intelligence has undergone a weakening known as deterioration, and that in our opinion his mental disease is progressive, and that he will not recover from his insanity. The mental condition of the said John Bell is such that he does not know the nature and quality of his acts, and is unable to distinguish right from wrong."

Upon said report upon September 30, 1910, order was made for the removal of the prisoner to the Dannemora State Hospital for Insane Convicts, there to remain until restored to his right mind.

Application for the Rendition of Frank N. Hoffstot**GOVERNOR'S OPINION ·**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 19, 1910.

In the Matter of the Application of the Governor of Pennsylvania for the Rendition of Frank N. Hoffstot as a Fugitive from Justice.

The Governor of Pennsylvania has made requisition for the surrender of Frank N. Hoffstot, charged in that State with the crime of conspiracy. The requisition is accompanied by a copy of indictment, found in Allegheny county on April 6th, 1910, and certified by the Governor of Pennsylvania to be authentic. There is also an affidavit by the chief county detective that the accused was in said county and State at the time of the commission of the offense. The papers are sufficient upon their face.

It is claimed on behalf of the accused that he is not a fugitive from justice. In support of that claim he testifies that he was not in the State of Pennsylvania on June 3rd, 1908, the date on which the indictment charges that the crime was committed, but that on that date he was in the city of New York. This testimony the attorneys for the Commonwealth of Pennsylvania do not attempt to contradict and they admit that they cannot controvert it.

But it is the contention of the Commonwealth of Pennsylvania that it is not limited to the precise date mentioned in the indictment, and that the crime was not committed on that particular day but during a period extending through May and June, 1908. The endorsement upon the indictment states that it was founded upon a presentment and a recital appended to the indictment is to the same effect. A copy of this presentment admitted to be authentic was submitted to me upon the hearing by counsel for the accused. This presentment contains the following:

“The Grand Inquest of the Commonwealth of Pennsylvania, now inquiring in and for the body of the County

of Allegheny, upon their oaths and solemn affirmations, Do Respectfully Present and report in regard to the bribe received by Charles Stewart, a member of Select Council of the city of Pittsburgh, of the sum of \$52,500, for the selection of the Farmers Deposit National Bank of the city of Pittsburgh, the Second National Bank of Pittsburgh, and the German National Bank of Allegheny, as depositories for the city of Pittsburgh for the four years beginning February 1, 1909, as follows:

" That in the spring of 1908, the said Charles Stewart, then and there being a member of Select Council of the city of Pittsburgh, did enter into and complete an arrangement with one James W. Friend, now deceased, representing Frank N. Hoffstot, one of his associates in this transaction, and representing further as ultimate principals the Farmers Deposit National Bank of Pittsburgh, the Second National Bank of Pittsburgh, and the German National Bank of Pittsburgh, whereby the said James W. Friend and Frank N. Hoffstot would pay him, the said Charles Stewart the sum of \$52,500. for the purpose of securing the selection of the said three banks as depositories of the city of Pittsburgh, for the period above specified. The first arrangement was to the effect that James W. Friend would secure the services of a stakeholder to hold said sum of money pending the passage of the proper ordinances and resolutions. In an endeavor to complete this arrangement, the said Stewart and Friend attempted to obtain the services of William A. Blakeley, Esq., then and there a member of the Allegheny County Bar, and requested him to act as stakeholder. Mr. Blakeley declined to act in that or in any other capacity, and warned the parties of the criminality of the proposed act and of the danger to them of any further connection with such a transaction.

" Subsequently to this occurrence the said James W. Friend, now deceased, and his associates, including Frank N. Hoffstot, completed an arrangement with the said Charles Stewart whereby said Frank N. Hoffstot would

pay or cause to be paid to the said Charles Stewart the amount of money agreed upon in the city of New York, in order, if possible, to avoid all criminal liability in the county of Allegheny.

"We find that pursuant to said agreement the said Frank N. Hoffstot did pay and cause to be paid to the said Charles Stewart upon the times mentioned in a foregoing presentment of ours, in all the said sum of \$52,500.

"We further find that the said Frank N. Hoffstot did solicit from one James M. Young, cashier of the Second National Bank of Pittsburgh, the sum of \$21,000 to be paid to the said Charles Stewart for the purpose of insuring the selection of the Second National Bank of Pittsburgh as one of the city depositories.

"We further find that between June 22nd, 1908, when the ordinance providing for the selection of the following six banks as city depositories, viz: Farmers Deposit National Bank of Pittsburgh, Columbia National Bank of Pittsburgh, Second National Bank of Pittsburgh, German National Bank of Pittsburgh, German National Bank of Allegheny and Workingsman Savings Bank and Trust Company of Allegheny, was passed by the councils of the city of Pittsburgh, and July 9th, 1908, when said ordinance was passed over the Mayor's veto, that the said Frank N. Hoffstot did call up by telephone the said James M. Young upon two occasions and did request him to forward to a certain party whose name is to the Grand Inquest unknown, at a certain address in New York, the said sum of money as a bribe."

Then follow the findings in substance that on June 3rd, 1908, Frank N. Hoffstot conspired with Stewart and Friend to defraud the city of Pittsburg and to procure by the bribery of Councilmen the selection of the Farmers Deposit National Bank of Pittsburg, Second National Bank of Pittsburg and German National Bank of Allegheny as the depositories of the city, and the recommendation that the district attorney should be directed to prepare an indictment accordingly.

It is well settled that upon the trial, the precise date alleged in the indictment would not be material, and that the State could prove the commission of the crime at a different time. (*Jacobs v. Commonwealth*, 5 S. & R. 315; 1 Pomeroy's Archbolds Crim. Pr. & Pl. p. 363.) The crime here alleged is conspiracy, to bribe municipal officers. It would not be necessary to prove that the crime was committed on a particular day. It may be proved by circumstantial evidence, and its very nature frequently makes a crime of this sort susceptible of none other. As said in *Kelley v. People* (55 N. Y. 576):

"A conspiracy may be proved, as other facts are proved, by circumstantial evidence, and parties performing disconnected overt acts, all contributing to the same result and the consummation of the same offense, may, by the circumstances and their general connection or otherwise, be satisfactorily shown to be conspirators and confederates in the commission of the offense. One party may allure the victim into the den, leaving it to others to effect the robbery, and all will be held equally guilty as confederates." (See *People v. Miles*, 123 App. Div. 862; *affd.*, 192 N. Y. 541).

It is not unusual to find in such cases that it is necessary to prove acts of the alleged conspirators extending through a considerable period of time, the evidence of which may furnish a sure basis for the conclusion that the crime charged has in fact been committed. There is no rule of law which confines the proof to a particular day, much less to the precise day set forth in the indictment.

In view of the statements in the presentment and those made upon the hearing before me, I must conclude that the charge which the accused, if surrendered, would be called upon to meet under the indictment, is not limited to the third day of June, 1908, but would embrace an extended period covering the months of May and June in that year.

The first question then is whether, whatever may be the fact as to the time to which the charge actually relates or the showing upon this point before the Executive of the State where the accused is found, the demanding State in a proceeding of this

sort is absolutely bound by the date specified in the indictment. In an extradition proceeding must the Executive determine the question whether the accused is a fugitive from justice solely with reference to that date? I do not so understand the law.

Undoubtedly where there is nothing before the Executive to show that the charge relates to any other time, he is justified in refusing to surrender the accused if it clearly appears that on the date specified the accused was not within the demanding State.

It is well established that the accused cannot be considered a fugitive from justice if he was not within the demanding State at the time when the offense with which he is charged was committed. He cannot properly be surrendered upon the theory of a "constructive presence." (*People ex rel. Corkran v. Hyatt*, 172 N. Y. 176; *Hyatt v. Corkran*, 188 U. S. 691). In the *Hyatt* case, the accused was charged by indictment in Tennessee with the commission of crimes on May 1, 1901, May 8, 1901, and June 24, 1901, respectively. It was stipulated that he was not in Tennessee between May 1, 1899, and July 1, 1901, but was in that State on July 2, 1901. The question presented was whether he should be surrendered to the authorities of Tennessee on the doctrine of "constructive presence," it having been conclusively established that he was not physically present in Tennessee when the alleged crimes, if ever, were committed. It was not pretended that he was in the demanding State when the crimes were actually committed, and his presence there on July 2, 1901, therefore had no relevancy to the charge.

But the *Hyatt* case did not decide that where it appears that the crime charged was committed at another time than that specified in the indictment, this cannot be considered by the Executive upon a demand for rendition. Upon the contrary, such a holding was distinctly negatived. Cullen, J., in giving the opinion of the New York Court of Appeals said (172 N. Y. on p. 188):

"It is suggested (though not by counsel) that I have construed the stipulation of the counsel for the state of Tennessee too broadly and that it was intended to admit

only that the defendant was not in Tennessee at the particular dates alleged in the indictment, not that he was absent from Tennessee at the commission of the offenses charged against him. The brief of the learned counsel entirely disposes of this suggestion. He makes but two points: 1. 'A person charged with crime may be extradited although he was not within the demanding state at the time of the commission of the alleged offense;'

" 2. 'The Supreme Court is limited on habeas corpus to review but one question, namely, the question of identity.' I have, therefore, but followed the counsel's own construction of his admission." (See also opinion of O'Brien, J. *id.* on pp. 197, 198).

The dissenting judges in this case gave a different construction to the stipulation and thus reached the conclusion that the question of constructive presence was not involved (*id.* pp. 205-210). In the United States Supreme Court the stipulation was construed in conformity with the view of the majority of the New York court, and it was upon this basis that the final result was reached. The court said (188 U. S. on pp. 711, 712):

"The indictments in this case named certain dates as the times when the crimes were committed, and where in a proceeding like this there is no proof or offer of proof to show that the crimes were in truth committed on some other day than those named in the indictments, and that the dates therein named were erroneously stated, it is sufficient for the party charged to show that he was not in the State at the times named in the indictments, and when those facts are proved so that there is no dispute in regard to them, and there is no claim of any error in the dates named in the indictments, the facts so proved are sufficient to show that the person was not in the State when the crimes were, if ever, committed.

"The New York Court of Appeals has construed the stipulation as conceding these facts and we think that its construction of the stipulation is the correct one."

In *McNichols v. Pease* (207 U. S. 100) the charge shown by affidavit, was that the accused committed the crime of larceny in Wisconsin on September 30, 1903. He sought to prove that he was in Chicago on the precise day alleged. While his proof was deemed insufficient on this point, still the point was not conceded to be controlling. Mr. Justice Harlan in delivering the opinion of the court said (on p. 110) :

“ It is said that the plaintiff in error was not in the State of Wisconsin on the day when the alleged larceny from the person of Hansen was committed ; therefore, it is contended, he could not have committed the crime charged, and thereafter become a fugitive from the justice of that State. If the authorities of Wisconsin were bound by the date named in the requisition papers, which we do not concede (1 Pomeroy's Archbold's Cr. Pr. & Pl. 363), still the record presents no such case as is contended for by the accused.”

Similarly in *Hayes v. Palmer* (21 App. Cas. Dist. Col. 450), the alleged *alibi* was not satisfactorily established with respect to the precise date charged, but the court evidently did not regard the demanding State as limited to that date, if it should appear that in fact the charge related to another time. The court said (id. p. 462) :

“ For example, suppose the case of a party indicted for a secret murder that had been brought to light, long after its commission, by the discovery of the partly decomposed body, or the skeleton of the murdered person ; the evidence being entirely circumstantial, and the date of the commission of the crime a matter of conjecture on the part of the grand jury. The accused, having been arrested in another State as a fugitive from justice, testifies that he was not in the demanding State on the day alleged, but had been there shortly before, and frequently during the same summer, failing, however, to fix the latter dates at all. Would this evidence be sufficient to impose upon the demanding State the burden of introducing witnesses to

prove the various circumstances from which it might reasonably be inferred that the murder had occurred shortly before the date alleged in the indictment? We think not."

The date alleged in the indictment is frequently selected arbitrarily. If there is no claim that the offense was committed at another time, of course the date alleged is the only time before the Executive and he must make his decision accordingly. But if it satisfactorily appears that a charge relates to another time and that the accused is a fugitive from justice with respect to the actual charge, there is no public policy in making it necessary to have a new indictment found, with a more exact reference, in order that rendition should be had. Insistence upon this might frequently cause a miscarriage of justice and such a rule would not accord protection to any substantial or proper interest of the accused. As was well said in *Appleyard v. Massachusetts* (203 U. S. pp. 227, 228), "The constitutional provision relating to fugitives from justice, as the history of its adoption will show, is in the nature of a treaty stipulation entered into for the purpose of securing a prompt and efficient administration of the criminal laws of the several States — an object of the first concern to the people of the entire country, and which each State is bound, in fidelity to the Constitution, to recognize. A faithful, vigorous enforcement of that stipulation is vital to the harmony and welfare of the States."

Such faithful, vigorous enforcement cannot well be had if the time to which the charge actually relates be disregarded and the formal specification in the indictment be treated as controlling. The rights of the accused in an extradition proceeding are no more sacred than those of the defendant upon the trial for crime. The precise date may be disregarded in the latter, and it should not be deemed absolutely binding in the former.

I conclude therefore that the question in the present case is not simply whether the accused was in the State of Pennsylvania on June 3, 1908, but whether he is a fugitive from justice with respect to the charge of conspiracy committed in the spring of 1908 and during a period embracing the months of May and June in that year.

Now in order that he should be deemed a fugitive from justice it is not necessary that the accused should have left the State in which the crime is alleged to have been committed for the purpose of avoiding a prosecution (*Roberts v. Reilly*, 116 U. S. p. 80). "The sole purpose of this statute, and of the constitutional provision which it was designed to carry into effect, was to secure the return of persons who had committed crime within one State and had left it before answering the demands of justice. The important thing is not their purpose in leaving, but the fact that they had left, and hence were beyond the reach of the process of the State where the crime was committed. Whether the motive for leaving was to escape prosecution or something else, their return to answer the charges against them is equally within the spirit and purpose of the statute; and the simple fact that they are not within the State to answer its criminal process, when required, renders, them, in legal intendment, fugitives from justice, regardless of their purpose in leaving." (*State v. Richter*, 37 Minn. pp. 436-438; quoted with approval in *Appleyard v. Mass.*, 203 U. S. on p. 231).

Nor may the accused be the less a fugitive from justice because he may reside in the State where he is found. The term embraces "not only a case where a party after committing a crime actually *flees*, in the literal sense of that term, from the State where such crime was committed, but also a case where a citizen of one State, who within the territorial limits of another State, commits a crime, and then simply returns to his own home." (*Ex parte Swearingen*, 13 S. C. pp. 74-80; *Appleyard v. Mass.*, *supra*.)

Upon an application of this sort it is neither practicable nor proper to try the merits of the charge, nor to determine whether the accused is guilty. So far as the charge of crime is concerned it is sufficient that it be shown by affidavit or indictment as the statute requires. Nor can it be conceived to be necessary to try the merits of the charge in order to determine whether the accused is a fugitive from justice. When it is said that he may be regarded as a fugitive if he has committed a crime in another State and then left that State, it is not meant that the Executive upon whom the requisition for his surrender is

made must first try out the question whether the accused actually committed the crime while in the demanding State. Such a contention would subvert the purpose of the Constitution and the statute, for in every case upon a plea that the accused was not a fugitive from justice he would be permitted upon this theory to demand proof that he had actually committed, or participated in the commission of, the crime. Such a view is inadmissible.

It must be deemed sufficient that it appears that the accused was within the demanding State at or during the time to which the charge relates, and in circumstances which do not negative his participation in the crime.

Where the charge is conspiracy, as in the present case, a crime which may be shown by circumstantial evidence involving the proof of various acts of the several parties, it is idle to say that the accused cannot be considered a fugitive from justice unless it is shown that, while he was within the demanding State, at the place and during the time to which the charge relates, he performed an act sufficient to show his participation in the crime. Whether his acts within that State during the period in question are of a character to justify his conviction, must be determined by a consideration of all the evidence which can satisfactorily be produced only upon the trial and cannot properly be heard or weighed on an application of this kind. At least this would seem to be clear where his presence in the State at the time to which the charge relates was not under conditions which establish the impossibility of his participation.

Viewed in this light I am convinced that I should honor the requisition.

The accused was not a stranger to Pittsburg. He had business interests in that city and was president of the German National Bank of Allegheny, one of the banks mentioned in the indictment which it is alleged was to be the beneficiary of the conspiracy which is the subject of the charge. It sufficiently appears that it was the practice of the accused to make frequent visits to Pittsburg in connection with his business there, and particularly in connection with matters affecting this bank. He testifies that he usually goes to Pittsburg "once

a month." Referring to the year 1908, he testifies that he "probably went there in April some time." It is his best recollection that he was there in the month of May "about the twenty-fifth or sixth, somewhere along there." He was also in Pittsburg as nearly as he can recall on "the twenty-ninth or thirtieth of June." On his trips he generally remained a day or two and attended to his various business interests. It also sufficiently appears that on the occasion of his visit in the latter part of May, 1908, which it is claimed by the Commonwealth of Pennsylvania took place on the 28th of May, he attended a meeting of the board of directors of the bank above mentioned.

The presence of the accused in Pennsylvania during the period in question was not casual or in circumstances of a character which remove it from consideration in connection with the charge. An indictment having been found against him upon a charge which, fairly considered, covers the time during which he was in Pittsburg, and having left the State of Pennsylvania and being found in this State, he should in accordance with the mandate of the statute be surrendered to the Pennsylvania authorities for trial.

It is no answer to say that the presentment in connection with other matters refers to an intention that payment of the bribe money should be made in New York in order to escape prosecution in Pennsylvania. This is only one of the statements. The charge is sufficiently made that he committed the crime in the State of Pennsylvania.

It has also been contended for the accused that in view of the demand in the presentment that he should return to give testimony, that this proceeding is not conducted in good faith. I assume, and upon the record before me I believe that I am bound to assume, that the indictment has been found in good faith and that it is the intention of the authorities of Pennsylvania duly to prosecute the accused for the crime, in the event of his surrender.

The only question is whether he should be regarded as a fugitive from justice, and I find that he is, and hence will grant the warrant.

(Signed)

CHARLES E. HUGHES.

**Application of Gilbert Coleman, Convicted of Murder
in the First Degree, for Executive Clemency, Denied**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 5, 1910.

*In the Matter of the Application of Gilbert Coleman, Con-
victed of Murder in the First Degree, for Executive
Clemency.*

The matters, which may be deemed important upon this application, were fully considered by the Court of Appeals. That court had before it not only the record on the appeal from the judgment of conviction, but also the papers on the motion for a new trial which presented the claims of the defendant with respect both to the conduct of the trial and to the additional evidence he desired to submit. After a careful review of all the questions involved the court reached the conclusion that the conviction should be affirmed.

I have examined the record and the papers submitted and I find no ground, consistent with the proper administration of justice, which would justify me in granting the application.

The application is therefore denied.

(Signed) CHARLES E. HUGHES.

**Regarding the Case of Luigi Gambacorta, Under Sen-
tence of Death — Commissioners Appointed to Ex-
amine Him and Report as to His Sanity**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

ALBERT WARREN FERRIS, M. D., *President, State Commission
in Lunacy;*

EDWARD L. HANES, M. D., *Assistant Physician, Rochester
State Hospital, and*

ANTONIO STELLA, M. D., 214 East Sixteenth Street, Borough
of Manhattan, New York City,

are hereby appointed Commissioners to examine Luigi Gam-
bacorta, otherwise known as Louigi Gambacurta, otherwise

known as Louigi Giambacurta, now confined in Auburn Prison under sentence of death, and to report to the Governor as to his sanity at the time of the examination, in accordance with the requirements of section 495a of the Code of Criminal Procedure.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L.S.] sixth day of May in the year of our Lord one
thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

**Commissioners Give Opinion that Gambacorta is Insane
— Governor Orders the Removal of the Insane Man
to the Dannemora Hospital for Insane Convicts**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albert Warren Ferris, M. D., President, State Commission in Lunacy; Edward L. Hanes, M. D., Assistant Physician, Rochester State Hospital, and Antonio Stella, M. D., having been appointed by me on May 26, 1910, to examine Luigi Gambacorta, otherwise known as Louigi Gambacurta, otherwise known as Louigi Giambacurta, confined in Auburn Prison, under sentence of death, and to report to me as to his sanity at the time of the examination, and the Commission having made such examination and reported this day the facts to me, with their opinion thereon that the said convict is insane, and that his mental condition is such that he does not know the nature and quality of his acts and is unable to distinguish right from wrong, and it appearing to my satisfaction that the said convict is now insane,

NOW, THEREFORE, I, Charles E. Hughes, Governor of the State of New York, pursuant to the statute in such case made and provided, do hereby order the removal of the said Luigi

Gambacorta, otherwise known as Louigi Gambacurta, otherwise known as Louigi Giambacurta, so found insane, to the Dannemora Hospital for Insane Convicts, there to remain until restored to his right mind.

GIVEN under my hand and the Great Seal of the State
at the Capitol in the city of Albany this eighteenth
[L.S.] day of June in the year of our Lord one thousand
nine hundred and ten.

(Signed) CHARLES E. HUGHES.

Attest:

SAMUEL S. KOENIG,
Secretary of State.

Regarding the Case of Guiseppe Gambaro, Under Sentence of Death — Application for Executive Clemency Denied

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, July 20, 1910.

In the Matter of the Application for Executive Clemency in the Case of Guiseppe Gambaro, Under Sentence of Death.

Guiseppe Gambaro shot and killed his brother, Vincent Gambaro, in the city of New York on February 5, 1909. Upon his trial in May, 1909, he was convicted of murder in the first degree. Ten months later a motion was made for a new trial upon the ground of newly-discovered evidence, in connection with which a number of affidavits were presented setting forth alleged facts which had not been brought out at the trial. The motion for a new trial was denied. Upon an appeal to the Court of Appeals the facts presented upon this motion were included in a supplemental return.

The Court of Appeals unanimously affirmed the conviction and stated its conclusions as follows:

"The jury found the defendant guilty of murder in the first degree, and a careful examination of the record compels the conclusion that the verdict was the only one that could have been honestly rendered in the circumstances. * * *.

"Nothing further need be said about the real record on appeal. Defendant's present counsel, who was called into the case after the trial and conviction, now asks us to consider a supplemental return consisting of affidavits which set forth averments of facts and circumstances referred to as newly discovered evidence, and upon which a motion for a new trial was made and denied. Although these affidavits are not a part of the record on appeal, we have examined them carefully and have no hesitation in deciding that, conceding all they contain, they are not sufficient to warrant the granting of a new trial. The whole case can be fitly characterized in a sentence. The defendant, smarting under a real or fancied wrong, undertook to be his own avenger and committed a murder which is surrounded by unmistakable elements of deliberation and premeditation and is without a single palliating circumstance."

In the papers presented to me there is nothing which would justify me in reaching a different conclusion, or in interfering with the execution of the judgment of the court.

The application for clemency is denied.

(Signed) CHARLES E. HUGHES.

**Regarding the Requisition for A. Shep Pearlstine —
Warrant for Arrest and Rendition Revoked and
Vacated**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

In the Matter of the Requisition for A. Shep Pearlstine.

The requisition of the Governor of the State of Tennessee, dated January 25, 1910, for the rendition of A. Shep Pearlstine, charged with embezzlement in that State, having been honored heretofore, to wit, on February 4, 1910, and a warrant for the arrest and rendition of said A. Shep Pearlstine having been issued to the Police Commissioner of New York city, and the said A. Shep Pearlstine having applied for the vacating of said warrant and having thereupon presented to me satisfactory evidence that he was not within the State of Tennessee at any of the times of the commission of the offenses charged in the indictment which forms a part of the requisition papers, such evidence not being controverted,

ORDERED, That the said warrant for the arrest and rendition of said A. Shep Pearlstine be, and the same hereby is, revoked and vacated.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this first day
[L.S.] of August in the year of our Lord one thousand
nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

XI
MISCELLANEOUS

XI

MISCELLANEOUS

Approval of a Site for the State Farm for Women*

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 4, 1910.

Pursuant to the provisions of section 1 of chapter 467 of the Laws of 1908, I hereby approve as a site for the State Farm for Women, the lands selected by the Commission on State Farm for Women, appointed pursuant to the provisions of said chapter to select a site for the State Farm for Women, and submitted to me by the said Commission in a communication dated November 16, 1909, and I approve the purchase of said site accordingly.

(Signed) CHARLES E. HUGHES,
Governor of the State of New York.

Approval of a Site' for a New State Prison*

STATE OF NEW YORK — EXECUTIVE CHAMBER.

The Commission on New Prisons having presented to me the annexed report, and the same having been duly considered,

I do hereby approve the selection of the site described in said report as the site to be purchased for a new State prison, and I approve the purchase thereof, pursuant to the provisions of chapter 365 of the Laws of 1910, and for the price stated in said report.

* See Appendix for report of the Commission on State Farm for Women.

* See Appendix for report of the Commission on New Prisons.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this ninth day
[L.S.] of June in the year of our Lord one thousand nine
hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,
Secretary to the Governor.

**Adjustment of the Claim of the Cayuga Nation of In-
dians Resident in the State of New York**

LETTER OF THE GOVERNOR TO THE COMMISSIONERS OF THE
LAND OFFICE.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 5, 1910.

To the Honorable:

HORACE WHITE, Lieutenant-Governor,
JAMES W. WADSWORTH, JR., Speaker of the Assembly,
SAMUEL S. KOENIG, Secretary of State,
CLARK WILLIAMS, Comptroller,
THOMAS B. DUNN, State Treasurer,
EDWARD R. O'MALLEY, Attorney-General,
FRANK M. WILLIAMS, State Engineer and Surveyor,
Commissioners of the Land Office, Albany, N. Y.

SIRS.—Pursuant to your instructions I received on February 17, 1910, a certified copy of your proceedings at a meeting held February 16, 1910, in the matter of the adjustment of the claim of the Cayuga Nation of Indians resident in the State of New York, pursuant to the provisions of chapter 255, Laws of 1909, together with form of treaty submitted for my approval.

In order that I might be advised of all the facts pertaining to said claim, and of the questions which should be taken into consideration in giving or withholding my approval of the proposed settlement, I requested the Attorney-General to make a report to me upon the matter.

I have received his report under date of April 26, 1910, a copy of which I hand you herewith.

The Attorney-General has given the matter careful consideration and has reviewed the subject at length. In his conclusion he says:

“I am of the opinion that this claim is without basis as a legal claim against the State. The only aspect in which it can be considered is as a benevolent or charitable gift. As such, there is no legal objection against its being paid. In my judgment, the Legislature has substantially the same power to provide for making such a grant as in the case of pensions or bounties.

“Although this claim appears to have the sanction of the Legislature and to be authorized by it to be settled, yet it has been provided in the act of 1909 that the settlement be approved by the Governor. At no time when this matter was before the Legislature, did it appear that this tribe had borne arms against the citizens of this State and nation; nor did it appear that whatever lands the Cayugas possessed after the Revolution, they occupied through the special benefaction of the State. These facts and the many others recited above, not having been taken into consideration heretofore, may now quite properly be considered by you in granting or withholding your approval of this settlement.”

In view of the Attorney-General's statement in the concluding sentence above quoted, that the facts to which he refers have not been taken into consideration heretofore, I deem it proper to bring the report to your attention, and to return to you the enclosed form of settlement or treaty submitted to me, in order that you may have opportunity in the light of the statements contained in the report to give the matter such further consideration, or to make such further suggestion or recommendation, as you may think advisable.

I have the honor to remain,

Very respectfully yours,

(Signed) CHARLES E. HUGHES.

Approval of the Selection of Additional Lands as a Site for a New State Prison*

STATE OF NEW YORK — EXECUTIVE CHAMBER.

The Commission on New Prisons, having presented to me the annexed report, dated June 25, 1910, and the same having been duly considered,

I do hereby approve the selection of the additional lands described in said report as a part of the site to be purchased for a new State prison, and I approve the purchase thereof pursuant to the provisions of chapter 365 of the Laws of 1910 and for the price stated in said report.

GIVEN under my hand and the Privy Seal of the State at the Capitol in the city of Albany this twenty-
[L.S.] fifth day of July in the year of our Lord one thousand nine hundred and ten.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,
Secretary to the Governor.

Enforcement of the Primary Election Law

"STATE OF NEW YORK — EXECUTIVE CHAMBER.

"Albany, September 16, 1910.

"HON. LANSING I. PLATT, *Sheriff of Albany County, Albany, N. Y.:*

"SIR.—I enclose copy of a communication under date of the 14th instant, signed by James B. Brennan and others, with regard to the primary election in Cohoes.

"I request you to take such action as may be necessary to secure the proper enforcement of the law within your county.

"Respectfully yours,

"(Signed) CHARLES E. HUGHES."

* See Appendix for report of the Commission on New Prisons.

The communication referred to by the Governor and enclosed with the letter to the sheriff was as follows:

Cohoes, N. Y., September 14, 1910.

To His Excellency, CHARLES E. HUGHES, *Governor of the State of New York*:

"The undersigned, duly enrolled members of the Democratic party in the city of Cohoes, hereby respectfully submit for your consideration the following statement of facts, relative to the approaching Democratic primary election which will be held in the city of Cohoes on September 20th, instant:

"At the last contested Democratic primary, which was held on the 31st day of March, 1908, the following gross irregularities and offences were committed and without interference on the part of any of the officers of the law:

"1. The polling places in several districts were opened and ballots placed in the boxes at least fifteen minutes before the hour fixed by statute for the opening of the polls;

"2. Requests on the part of watchers that the inspectors open the boxes for examination, before the hour fixed for the commencement of voting, were repeatedly ignored by the inspectors;

"3. In a great many instances ballots, commonly called 'Marrowfats,' were so ironed together as to present the appearance of but a single ballot; and were voted in that form;

"4. At the close of the polls, ballot boxes containing such so-called 'Marrowfats' were violently shaken so as to separate any ballots which might have been voted together, the obvious purpose being to circumvent the provisions of what is now section 60 of the Election Law;

"5. Electors who were present to witness the canvass were in several districts summarily ejected into the street and the doors to the polling places were locked;

"6. In one instance the inspectors left the ballots uncounted, proceeded to a neighboring saloon and there filled out and certified returns which were filed with the custodian of primary records;

"7. In another instance the returns were signed by the inspectors before the hour for closing the polls.

“ Remonstrances against the foregoing violations of the law were utterly unavailing to check them.

“ Original affidavits, taken soon after the occurrences above mentioned had transpired, are herewith filed.

“ The present leader of one of the factions of the party, one Michael T. Smith, whose name frequently occurs in the said affidavits, has repeatedly announced that he will under no circumstances permit any election district to be carried against the faction which he represents at the coming primary. John J. McShane, chairman of the Democratic City Committee, recently stated to Committeeman Jackson, of the Fourth ward of said city, that it would make no difference if the opposing faction received every vote cast in the ward, because the regular organization would not permit the opposition to win on the face of the returns under any circumstances.

“ At the next ensuing primary there will be nine separate primary districts or polling places in said city. Unless each of these polling places shall be adequately manned by a sufficient number of special deputy sheriffs, appointed for that day, it is firmly believed that the provisions of the primary election law will be violated in the same manner as hereinbefore stated.

“ We, therefore, respectfully request you to take such action as may be within your power, to insure in advance a fair primary in the city of Cohoes, which will better give effect to the vote of the majority than will subsequent prosecutions of crimes which may be committed.

“ (Signed)

JAMES B. BRENNAN,
JOHN J. RABBITT,
JAS. O'TOOLE,
JOHN T. GORMAN,
THOMAS F. TIERNEY,
S. V. LEWIS.”

Memorandum Filed by the Governor, October 5, 1910, in Connection With the List of Changes Recommended in the Salary and Wages Schedule of the State Charitable and Reformatory Institutions to Take Effect October 1, 1910

Certain of these resolutions, on account of the special circumstances of the case, have been approved as shown by the approval endorsed thereon.

I have felt that in view of the amount of the State expenditures, so largely in excess of what they have been, no further increase should be made (save to meet an unusual exigency) until the whole subject can have critical examination in the preparation of the budget for next year.

Under the new law, requests for appropriations should be filed with the State Comptroller on or before November 15th, and it is understood that he has already issued a notice asking that they be filed at an earlier date. It will be necessary that there should be strict economy, and all the data presented to the Comptroller will be the subject of careful study and tabulation to the end that there may be a proper adjustment of expenses in their relation to income. The charitable institutions may present their various requirements, and no doubt they will be duly considered.

Before this is done and the whole situation properly dealt with, I do not think that considerable increases through the institutions should be allowed, and of course where an increase is allowed in one institution, an increase of the same sort in another could not justly be denied.

I am very much interested in having our public institutions placed on a proper basis so that they can perform the work which they were intended to do. But the condition of the State's finances at this time must also be recognized and the question of estimated income, the possibility of reduction in expenses, as well as the necessities of State service must be the subject of comprehensive investigation. This is to be accomplished, as has been said, in the course of the preparation of the new budget, and if it is found that increases can be permitted, action can readily be taken at that time by the proper authorities.

(Signed)

CHARLES E. HUGHES.

Appointment of a Commission to Investigate the Conditions and Formulate Measures for Promoting a More Normal Distribution of Population

Governor Hughes received letters from Hon. Theodore Roosevelt, Hon. Adelbert Mott, Mr. Robert C. Ogden, Prof. Liberty H. Bailey, Dr. Stephen S. Wise, Mrs. Florence Kelley, Mr. John Mitchell, Mrs. V. G. Simkhovitch, Mr. V. Everit Macy and Mr. Albert A. Bird requesting him to designate a commission to investigate conditions and to formulate such measures as might be found advisable for the purpose of promoting a more normal distribution of population, the members thereof to serve without compensation and to report their findings and recommendations to the Governor and the State Legislature by February 1, 1911.

The Governor was also advised that as no State fund was available for the expenses of the commission, the necessary funds would be secured by those interested in the proposed inquiry.

Of the signers of these letters, Hon. Adelbert Mott, Prof. Liberty H. Bailey, Dr. Stephen S. Wise, Mrs. Florence Kelley, Mr. John Mitchell, Mr. V. Everit Macy and Mrs. V. G. Simkhovitch expressed their willingness to serve on the commission.

Accordingly, in pursuance of this request, the Governor has designated the following commission:

Hon. Adelbert Mott of Buffalo, former President of the New York State Bar Association;

Hon. Lewis Stuyvesant Chanler of Barrytown, former Lieutenant-Governor;

Prof. Liberty H. Bailey of Ithaca, Dean of the State College of Agriculture at Cornell University;

Mr. John Mitchell of New York, of the National Civic Federation;

Mrs. Florence Kelley of New York, Secretary of the National Consumers' League;

Dr. Stephen S. Wise of New York, Rabbi of the Free Synagogue;

Mr. V. Everit Macy of New York, financier;

Mrs. V. G. Simkhovitch of New York, Head Resident of Greenwich House;
Mr. Cyrus L. Sulzberger of New York, President of the United Hebrew Charities;
Mr. Henry T. Noyes of Rochester, manufacturer;
Dr. Antonio Stella of New York, physician; and
Mr. W. N. Giles of Skaneateles, Secretary of the State Grange.

The Governor addressed to these appointees, the following letter:

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, October 3, 1910.

Dear Sirs and Mesdames:

I have received from Hon. Theodore Roosevelt, Hon. Adelbert Moot, Mr. Robert C. Ogden, Prof. Liberty H. Bailey, Dr. Stephen S. Wise, Mrs. Florence Kelley, Mr. John Mitchell, Mrs V. G. Simkhovitch, Mr. V. Everit Macy and Mr. Albert A. Bird, letters in which it is stated:

“The concentration of about half of the population of the State in New York City and three-quarters of the population in half a dozen cities of the State, and the congestion, overcrowded dwellings and poverty in these large cities evidence a most unfortunate, and uneconomic development of the State.

“Simultaneously with the rapid growth of these few cities there has been an actual decrease in the rural population of the State. From 1900 to 1905 (the last year for which statistics are available) the population outside of New York City and 461 incorporated cities and villages in the State decreased 105,502, that is 13.20%. In 1909 over eleven-twentieths of all the workers in factories in the State were located in New York City, where practically all of the tenement manufacture licenses for sweatshops are granted.

“We appreciate that the causes of the concentration are extremely complex — social, economic and racial, but believe that the poverty, delinquency and sickness which

the conditions create or foster are so serious that they demand the most careful study and the formulation of a practical State policy for the more normal distribution of population over the State. We beg to ask, therefore, whether you will not appoint a commission to investigate the causes, and to formulate a constructive policy for this distribution of population, the members thereof to serve without compensation and to report their findings and recommendations both as to measures and legislation to the Governor of the State and the State Legislature by February 1st, 1911.

"The scope of the inquiry should include the examination particularly in the small cities, villages and country districts, of the housing conditions, rent and ownership of homes, cost of farm lands and homes, cost of producing, the educational conditions in the State, the nature of instruction, especially agricultural and industrial, the value of central schools, the need for better roads and other related matters."

I fully appreciate the difficulty of the problems to which the signers of these letters refer and the importance of careful study of existing conditions in order that remedies so far as such may be available may be supplied. You are therefore requested to act as a commission for the purpose of investigating existing conditions and of formulating such measures to promote a more normal distribution of population as may be found practicable and to report the result of your examination and your recommendation to the Governor and the Legislature.

This designation it must be understood is informal and you are not authorized thereby in any way to bind the State; and as there is no appropriation available for this work, it will be necessary for you to secure such funds for this purpose as may be required.

I am sure, however, that your unselfish service without compensation in the interest of humanity and to secure relief from conditions which seriously affect the welfare of the people will be gratefully recognized.

Very respectfully yours,

(Signed) CHARLES E. HUGHES.

XII

APPENDIX

XII

APPENDIX

Approval of Vouchers Presented by Commissioners of Saratoga Reservation

March 25. Governor Hughes approved vouchers presented by the Commissioners of the Saratoga Reservation at Saratoga Springs for the payment of \$20,000 for a one-tenth interest in the Hathorn property at Saratoga Springs, and also for the payment of \$6,250 for the purchase of one-fourth of the lands of the Champion Springs property owned by the Champion Natural Carbonic Acid Gas Company of Saratoga Springs.

Transmission of Spanish War Warrant

March 29. Governor Hughes transmitted to Thomas B. Dunn, State Treasurer, United States Warrant No. 18,911, for the sum of \$49,541.74, endorsed by him to the order of the State Treasurer, in settlement of claim No. 130,780 (Third Installment) of the State of New York, being reimbursement for part of the ordnance issued by this State to its troops for use in the war with Spain, and which part has not been replaced by the United States.

Prison Ship Martyrs Monument Fund

April 5. Governor Hughes endorsed and transmitted to State Treasurer Thomas B. Dunn a check drawn upon the National Bank of Commerce by J. M. Dickinson, Secretary of War and President of the Prison Ship Monument Commission, in the amount of \$1,719.90, being the amount pro rata returned to the State of New York from the balance remaining on hand of the moneys raised for the building of the Prison Ship Martyrs Monument.

Lafayette Monument Fund

April 12. Governor Hughes transmitted to State Treasurer Thomas B. Dunn a check drawn by the Lafayette Memorial Commission, E. A. Potter, Treasurer, upon the Continental National Bank to the order of the State of New York for the sum of \$1,134.38, with voucher and blank attached, being a return of the balance of the appropriation made by the State of New York in 1899 as a contribution to the fund for the erection in Paris, France, of a monument to Lafayette.

Deed of Gift for Sites of Fort Saint Frederic and Fort Amherst

April 23. Governor Hughes transmitted to Clark Williams, State Comptroller, a deed of gift or conveyance and an assignment of lease in perpetuity from the corporation of Witherbee, Sherman & Company to The People of the State of New York, of land in the town of Crown Point, Essex county, New York, embracing the sites of Fort Saint Frederic and Fort Amherst.

(The Governor, on April 22d, signed Assembly Bill No. 1689—being chapter 151 of the Laws of 1910.)

GOVERNOR'S LETTER.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 22, 1910.

Hon. CLARK WILLIAMS, *Comptroller, Albany, N. Y.*:

SIR.—I have this day signed Assembly Bill No. 1689, entitled "An act to accept a deed of gift and an assignment of lease in perpetuity, from the corporation of Witherbee, Sherman and Company to the people of the State of New York, of land in the town of Crown Point, Essex county, New York, embracing the sites of Fort Saint Frederic and Fort Amherst."

I hand you herewith the deed of gift or conveyance and the assignment of lease in perpetuity, described therein, and executed by Witherbee, Sherman & Company to the State of New York under date of March 25, 1910.

Very respectfully yours,

(Signed) CHARLES E. HUGHES.

Deed of 14th Regiment Armory

April 22. Governor Hughes transmitted to Clark Williams, State Comptroller, a deed approved by him from the People of the State of New York to the City of New York, of the old 14th Regiment Armory on Portland avenue, Auburn place and Hampton street, Brooklyn.

GOVERNOR'S LETTER.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 22, 1910.

Hon. CLARK WILLIAMS, *Comptroller, Albany, N. Y.:*

SIR.—Pursuant to chapter 652 of the Laws of 1907, I have executed a deed conveying to the city of New York a parcel of land on North Portland avenue and Auburn place in the borough of Brooklyn, city of New York, heretofore used for military and armory purposes. I have already placed in your hands warrant No. 1823, dated June 16, 1909, drawn by the comptroller of the city of New York to your order for the payment of \$20,000 out of the city treasury as the consideration for said property.

I now enclose copy of letter from the Attorney-General under date of April 18, 1910, which I received with the said warrant when the said deed was presented to me for execution, and also the following papers referred to in the said letter:

(1) Copy of act, chapter 652 of the Laws of 1907.

(2) Original resolution of the Commission appointed under said act signed by the mayor of the city of New York, the comptroller of the city of New York, the president of the board of education of the city of New York, the Deputy Comptroller of the State of New York, and the Major-General in command of the National Guard of the State of New York, dated February 8, 1909.

(3) Original letter addressed to me by the comptroller of the city of New York, dated March 1, 1909, transmitting the report of said Commission.

(4) Certified copy of the minutes of the board of estimate and apportionment of the city of New York, dated March 19, 1909.

(5) Certified copy of deed from the city of Brooklyn to the People of the State of New York for the premises in question, dated April 9, 1858.

I also enclose copy of the deed executed by me for filing in your office, in accordance with the Attorney-General's suggestion.

Very respectfully yours,
(Signed) CHARLES E. HUGHES.

ATTORNEY-GENERAL'S LETTER.

STATE OF NEW YORK — ATTORNEY-GENERAL'S OFFICE.

Albany, April 18, 1910.

Hon. CHARLES E. HUGHES, *Governor, Albany, N. Y.:*

DEAR SIR.—I enclose form of deed which is approved by me from the People of the State of New York to the city of New York of the old 14th Regiment Armory on Portland avenue, Auburn place and Hampton street, Brooklyn, for your execution as Governor, pursuant to the provisions of chapter

652 of the Laws of 1907. The Commission appointed by that act, at a meeting held on February 8, 1909, resolved that as a matter of equity and fairness the city of New York should pay to the State the sum of \$20,000 for a deed of said property, which resolution was duly adopted.

I also enclose a warrant drawn by the comptroller of the city of New York and countersigned by the acting chief clerk for the mayor, for the payment of \$20,000 out of the city treasury to the Comptroller of the State of New York for the purchase of said property, together with a copy of said act, chapter 652 of the Laws of 1907; also original resolution of the Commission appointed under the said act, signed by the mayor of the city of New York, the comptroller of the city of New York, the president of the board of education of the city of New York, the Deputy Comptroller of the State of New York and the Major-General in command of the State of New York, dated February 8, 1909, together with original letter to you of March 1, 1909, from the comptroller of the city of New York transmitting the report of said Commission; also certified copy of the minutes of board of estimate and apportionment of the city of New York, March 19, 1909; also a receipt for the \$20,000 to be signed by the State Comptroller and delivered by him to the representatives of the comptroller of the city of New York who now present said warrant. I also hand you two copies of this proposed deed, one of which should be filed in the Comptroller's office and the other sent to the Secretary of State to be recorded in his office. I also enclose a certified copy of the deed from the city of Brooklyn to the People of the State of New York for the premises in question, dated April 9, 1858.

The warrant for \$20,000 should be sent to the State Comptroller.

Yours respectfully,

EDWARD R. O'MALLEY,

Attorney-General.

Report of Commission on New Prisons*

To the Governor and the State Commission of Prisons:

The Commission on New Prisons, appointed by the Governor under chapter 670 of the Laws of 1906 and amendments thereto, begs to report as follows:

Chapter 365 of the Laws of 1910 authorizes and directs this Commission to select a new site upon which to establish a State prison in the eastern part of the State to take the place of Sing Sing instead of the site heretofore selected in the counties of Rockland and Orange, and known as the Bear Mountain site.

This law makes it the duty of this Commission to select a site and, on the approval of the Governor and the State Commission of Prisons, to purchase the same. It directs that in the selection of such site due consideration shall be given to water supply, facilities for drainage, and easy communication by rail or water, or both, with the city of New York; such site to consist of not less than 300 or more than 1,000 acres in the southeastern part of the State.

In pursuance of the authority and direction of this law the Commission on New Prisons hereby certifies that it has selected for such new site for a State prison a tract of land situated in the eastern part of Dutchess county, near the village of Wingdale, on the Harlem R. R., 69 miles from the Grand Central station, New York city.

This site was offered to the Commission by Robert C. Hurd, of Pawling, and consists of three parcels of land, containing in all between 525 and 550 acres.

The proposal recites these tracts contain 550 acres, but a hurried survey by our engineer indicates only 532.43.

The agreed price is \$100 an acre for whatever number of acres the site may actually contain.

In selecting a site the Commission had before it a large number of proposals presented at the time of the selection of the Bear Mountain site, most of which were still open to consideration and many of which the Commission had formerly

* Note.— See "Miscellaneous" for Governor's approval of site.

visited. In addition to these a considerable number of new sites were proposed, and these were carefully considered.

The above act excludes "Long Island." The Commission determined, for various reasons, not again to select a site on the immediate banks of the Hudson river, and therefore eliminated all sites proposed along the Hudson.

The Commission also deemed it unwise to place this prison within the territory from which New York city is drawing its water supply. Partly for this reason and partly because of the high price of land, a number of proposals for sites in Westchester county was eliminated.

It is the judgment of the Commission that the site above selected presents the following advantages:

First. It consists of a fertile farm, most of it under cultivation. The work of this farm will furnish healthful employment to a number of prisoners, and its products will somewhat reduce the cost of maintenance.

Second. It is situated on the main line of a trunk railway—the Harlem Division of the New York Central R. R.—passing the farm from north to south near its eastern boundary line, giving easy communication by rail with the city of New York—69 miles distant.

Third. It contains two or more level plateaus on which to construct a prison plant, one near the railroad slightly above the level of the road bed, affording easy facilities for sidetrack and switches. The other on the high ground about 500 feet above the level of the railroad and about one mile distant.

Fourth. Water Supply.—There is a brook running down through this site from the highlands of the western part of the site having its entire watershed upon the site. The Commission had this water supply carefully investigated by a competent engineer, who reported that 129,600 gallons per day appeared to be about the normal flow of the stream. This stream is at the bottom of a deep gorge, having its banks heavily wooded, and is sufficiently precipitous to enable the Commission to construct a storage basin capable of holding more than five million gallons, and then to construct on a higher elevation a series of such reservoirs.

The Commission ascertained from careful inquiry of old residents who have known this stream for many years that it never goes dry. The reservoirs in this stream would be of sufficient elevation above the first plateau above mentioned to furnish a gravity supply of water to a prison plant constructed on such plateau.

In addition to the brook above mentioned there is also another brook on the western slope of this site, having an equal flow of water which could be dammed and siphoned over the divide into the brook on the western slope; in this way the water supply first above mentioned would be doubled. In addition to the above brooks, which contain absolutely pure water out of springs and rivulets, Swamp river skirts the entire western boundary of this site and would afford an inexhaustible supply of water for mechanical purposes if needed.

Fifth. Drainage.—The principal area of this site slopes toward Swamp river, affording excellent facilities for drainage and sewerage.

Sixth. Improvements.—The buildings on this site we estimate to be worth not less than \$20,000, and that it would cost the State, at the present prices of material and labor, probably double that amount to replace them; and they can all be utilized to advantage.

This site has been chosen because, in the judgment of the Commission, it fulfills all the requirements of the law above recited; and the price agreed upon—\$100 per acre—is deemed reasonable.

The Commission therefore respectfully asks that its action in selecting such site be approved.

Respectfully,

(Signed) E. M. JOHNSON,
C. V. COLLINS,
WM. J. MCKAY,

Commissioners.

Dated June 6, 1910.

Attest:

GEO. McLAUGHLIN,
Secretary.

Second Report of Commission on New Prisons*

*To the Governor and the State Commission of Prisons:**

The Commission on New Prisons, appointed by the Governor under chapter 670 of the Laws of 1906 and amendments thereto, begs to present the following report, supplemental to the report adopted June 6, 1910, and later approved by you, certifying its selection of certain lands in the town of Dover in the eastern part of Dutchess county as a new site for the State prison to take the place of Sing Sing, under the provisions of chapter 365 of the Laws of 1910.

When said report was presented to the Commission of Prisons for approval at its meeting June 7, 1910, it was unanimously approved. In addition to approving the lands already selected the commission also recommended that the Commission on New Prisons consider whether it would not be advisable to acquire additional land on the east and south of the lands described in said report, in order to secure more complete control of the brooks crossing the property and their headwaters.

The Commission on New Prisons thereupon immediately caused an examination to be made of three tracts of land lying south of the eastern end of the lands previously selected, viz., the remaining part of the Brown farm, consisting of 22 acres, lying immediately south and adjacent to the Brown tract of 16.43 acres already selected; the Wilcox farm of 71 acres, lying east of the 22 acres of the Brown farm and south of the Martha W. Mead or Titus farm, and extending somewhat further east than the Titus farm and including not only additional portions of the brook on the eastern end of the site, but also a considerable portion of the stream constituting the outflow of Hammersley lake; also the Duell farm of 82 acres, lying south of the Wilcox and Brown farms and embracing additional sections of the streams flowing out of Hammersley lake.

The Commission on New Prisons on or before its meeting of June 9th received proposals for these farms as follows:

* Note.—See "Miscellaneous" for Governor's approval of site.

Brown farm	22	acres	—	\$100	per	acre.
Wilcox farm	71	"	—	90	"	"
Duell farm	82	"	—	8\$	"	"

After due consideration by the commission on June 9, 1910, the following resolution was adopted:

RESOLVED, That it is the judgment of this commission that we purchase, in addition to the lands mentioned in the report heretofore made to the Governor, a small tract of land known as the Brown place, consisting of 22 acres adjoining the site on the south, and another tract known as the Wilcox farm, consisting of 71 acres and adjoining the east end of the site on the south. This would give access to the stream which constitutes the overflow of Hammersley lake, a stream discharging at the present time over a million gallons of water a day, water of excellent quality, and would make the water supply on this site beyond question — the purchase of these additional lands having also been recommended by the Commission of Prisons.

These farms had been carefully examined by the architect for the commission, William H. Beardsley, and by Mr. Ogden of Poughkeepsie, a competent engineer, previous to the meeting of June 9th and a verbal report submitted at that meeting. Later Mr. Beardsley submitted a written report, dated June 14, 1910.

It is the judgment of the Commission on New Prisons that the Brown farm of 22 acres and the Wilcox farm of 71 acres above mentioned should be added to the lands mentioned in the former report of the Commission, dated June 6, 1910, as a part of the site for this new prison.

While these additional lands are desirable, in order to protect and enlarge the water supply for the prison, they are also desirable because they consist for the most part of improved lands, having on each of them a dwelling house, barn, and other improvements, all of which can be utilized by the State. The additional cost of these lands will be \$8,590.

The Commission on New Prisons therefore requests the approval of the Governor and the State Commission of Prisons of

the selection of these additional lands as part of the site for the State prison to take the place of Sing Sing.

Dated, June 25, 1910.

(Signed) ELISHA M. JOHNSON,
C. V. COLLINS,
WM. J. McKAY,
JOHN C. WEST,
GEORGE S. SKIFF,
Commissioners.

Report of Commission on State Farm for Women*

Albany, November 16, 1909.

HON. CHARLES E. HUGHES, *Governor, Capitol, Albany, N. Y.:*

SIR.—The undersigned, the Commissioners appointed under chapter 467 of the Laws of 1908, entitled “An act to establish a State Farm for Women, and making an appropriation therefor,” report that they have selected a farm of approximately three hundred acres, owned by Mr. Willis A. Winne, located near Niverville in Columbia county, for the price of \$11,500, and on your approval will purchase the same for the purposes and uses specified in said act and in accordance with its provisions.

We therefore respectfully ask your approval of said selection.

C. V. COLLINS,
CHAS. F. HOWARD,
SIMON W. ROSENDALE,
ELIZA W. GUY,
JANE L. ARMSTRONG,
Commissioners.

New York, September 6, 1910.

HON. CHARLES E. HUGHES, *Governor of the State of New York:*

SIR.—In accordance with an act of the Legislature of the State of New York, passed February 17, 1909, the Committee

* See “Miscellaneous” for Governor’s approval of site.

of North Carolina Bondholders, consisting of Henry H. Melville and Louis E. Whicher, hereby tenders to the State of New York as an absolute donation obligations of the State of North Carolina in amounts from Five Thousand Dollars (\$5,000) of bonds to Five Hundred Thousand Dollars (\$500,000) of obligations, the amount thereof receivable being in your discretion under the statute.

(Signed) E. L. ANDREWS,
Attorney for Committee.

Second Letter

New York, September 6, 1910.

HON. CHARLES E. HUGHES, *Governor of the State of New York:*

DEAR SIR.—The novel phases in which the subject at bar is presented in the accompanying pamphlet must palliate this application.

In addition to the grounds there set forth under the act of 1909 for recognizing the vitality of the statute, some considerations have more recently occurred to the applicants.

As we are reviewing the entire bearing of the legislation at bar — to establish grounds for not treating it as if it had never been enacted — it is proper to estimate its public effects in their broadest aspects. The most comprehensive and important result, arising from its enforcement, would be to extirpate repudiation from the whole body politic of the federated States. With such execution of our statute, these unconstitutional adventures would cease to be profitable and would therefore fall into desuetude. This consummation would reinstate in practice the constitutional condition against the impairment of contracts imposed upon the States — presumptively for their own benefit as well as for the benefit of the States that obey the Constitution by refraining from repudiation. Certainly such a result would be deemed by the Executive a great civic accomplishment.

All taint upon the public credit of the country would thus be eradicated. For such a cause as the maintenance and advancement of public credit the administrative department of the government of New York could not be more worthily enlisted.

Very respectfully,

(Signed) E. L. ANDREWS.

Reply of Secretary to the Governor

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, October 3, 1910.

MR. E. L. ANDREWS, *Counsel to North Carolina Bondholders*,
25 Broad St., New York City:

DEAR SIR.—Governor Hughes directs me to acknowledge the receipt of your letters of the 6th and 30th ultimo, together with your offer to donate to the State of New York bonds of the State of North Carolina in amounts from five thousand to five hundred thousand dollars, and your pamphlet with respect to proposed action by this State upon bonds of other States said to be in default.

Three years ago an offer to give to the State of New York bonds of North Carolina was refused by the Governor upon the grounds stated in his letter of November 14, 1907, as follows:

“Under the Constitution of the United States the State of North Carolina is not subject, without its consent, to suit by citizens of New York or by the State of New York acting for the benefit of its citizens to whom the former State may be indebted. Suit can properly be brought by the State of New York not as a representative of individual owners of bonds of North Carolina, but as the holder of the absolute title comprehending both the legal title and the right to beneficial enjoyment. It does not seem to the Governor proper that such a title should be asserted, and that by virtue thereof suit should be brought in the name of the State of New York, which is intended as a cover for the

claims of individual bondholders, or to force settlement with them.

"And, assuming that the proceeding is exclusively for the benefit of the State of New York, the Governor does not believe it to be wise policy for the State to attempt to enrich itself by taking gifts of claims to be prosecuted against sister States."

The act of February 17, 1909, to which you refer, simply placed in its appropriate place in the Consolidated Laws, the law which existed at the time of your former offer, and no new question is now presented. The Governor sees no reason to change his conclusion in the matter.

Very truly yours,

(Signed) GEORGE CURTIS TREADWELL,
Secretary to the Governor.

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